

IN THE MATTER OF THE
THE APPLICATION OF
LOUIS C. HOFFMAN, III, ET UX
FOR A SPECIAL EXCEPTION AND
VARIANCE ON PROPERTY LOCATED
SOUTHEAST OF THE INTERSECTION
OF LONG GREEN PIKE AND GLEN
ARM ROAD
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT
ZONING CASE NO. 89-414-XA
EDMUND NELAN, ET AL,
PLAINTIFFS

* ON REMAND FROM
* THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* CASE NO. 78/117/90CG917

AMENDED OPINION
(PURSUANT TO REMAND ORDER OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY DATED OCTOBER 15, 1990)

This is an appeal from the decision of the Deputy Zoning Commissioner dated May 3, 1989 wherein Petitioners' request for special exception for a farmer's co-op roadside stand and a variance to permit driveway and parking area not to be paved with macadam and to permit parking spaces without the required striping was granted, subject to certain restrictions.

On September 28, 1989, this Board denied the Petitioners' Motion to Dismiss this appeal and the matter was set for hearing on the merits for December 26, 1989 at which time testimony was taken. The appeal to this Board is de novo and this Opinion is based upon the evidence, testimony and exhibits offered at the December 26, 1989 hearing.

The Petitioner was represented by Counsel, S. Eric DiNenna. Peter Max Zimmerman, Deputy People's Counsel for Baltimore County, participated in the proceedings. Testifying for the Petitioner were Louis C. Hoffman, owner of the property, Paul Lee, a registered professional engineer and Ed Nieland. Testifying in opposition to the Petitions were: Edmund Nelan, Gary Sorrells, John Mongan, Carol Spurry and Mrs. Sylvia Sorrells, all of whom

Amended Opinion
Louis C. Hoffman, III, et ux, Case No. 89-414-XA

live within the near vicinity of the subject property.

The subject property is located in the town proper of Glen Arm, located on the southeast corner of the intersection of Long Green Pike and Glen Arm Road in Baltimore County, Maryland. It is presently unimproved and consists of approximately 3.128 acres, which is split zoned, RC-2 and RC-5. The property is substantially RC-2, except for a small portion located on the southern boundary line. The Petitioner purchased the property in 1980 when it was zoned RC-5. Thereafter, it was reclassified in 1983 to RC-2 and a special exception was granted for the property by then Zoning Commissioner Arnold Jablon. An appeal was filed from the granting of the special exception, which was not heard since the property was reclassified to RC-5 in 1984. In 1988, the property was again reclassified to RC-2 under the Comprehensive Zoning Map Process. Thereafter, the Petitioner filed these Petitions for special exception and zoning variance which are now on appeal to this Board.

The Petitioner, Louis C. Hoffman, testified that he is a farmer by trade and owns and operates a 130-acre farm, of which 70 acres are attributable to fruit trees. He informed the Board that he is the largest fruit grower in Baltimore County and presently operates a fruit stand in the area near the site of the subject property. He described the street intersection and informed the Board that the closest home to the intersection is 600 feet and that two houses are located directly across the road from the site. He further testified that across from the intersection is Gruman Aircraft Plant and a processing plant. He indicated that there were commercial uses within 500 feet of the property site. He proposes to erect a 40' x 80' log cabin-type building from which

Amended Opinion
Louis C. Hoffman, III, et ux, Case No. 89-414-XA

to conduct his business. It is his desire to sell fruit and vegetables, cider and dairy products. His intended hours of operation are to open daily from 9:00 a.m. to 9:00 p.m. He further testified he was familiar with the conditions for the granting of a special exception as set out in Section 502.1 of the Baltimore County Zoning Regulations and stated in his opinion that the proposed use would meet all such conditions. Further he requested that he be relieved from the requirement of paving the parking lot with macadam and be permitted to use crusher run stone, which in his opinion would be more beneficial to the subject property since it would serve to retain water and prevent run-off more likely to occur from a macadam-type surface. Petitioner further indicated that in constructing the building, he would only be clearing that area which is needed and the only lighting would be for security purposes and there would be no parking lot lights.

Mr. Paul Lee, a registered professional engineer, testified on behalf of the Petitioner. He prepared a plan dated February 1, 1989, which provided for a proposed 40' x 80' log cabin-type building with 20 parking spaces. He testified that the property slopes up from the road and that a crusher run parking lot surface would be more beneficial since it would serve to control water run-off more effectively as opposed to an impervious macadam-type surface. He indicated the property would be serviced by a well and septic system and that the store would generate less use than the average of two homes. He further testified that the Department of Environmental Protection and Resource Management (DEPRM) agrees with the Petitioners' request for a crusher run parking lot and that the comments made by the County Reviewing Agencies have been complied with.

Amended Opinion
Louis C. Hoffman, III, et ux, Case No. 89-414-XA

In his opinion, he was unaware of any adverse effects that this proposed plan would have upon the surrounding community and that all of the conditions as delineated in Section 502.1 of the Baltimore County Zoning Regulations (BCZR) have been met.

Five Protestants appeared and testified in opposition to the Petitioners' plan, all of whom were property owners in the immediate area. Collectively, their testimony indicated that the neighborhood was in a transitional stage consisting of mixed rural, office and agricultural uses. They felt that the Petitioners' proposed plan would have a negative impact on the value of their residential properties and generally feared any further commercial development within the area. Additionally, they felt that the proposed plan for a roadside stand was too large and that it would create a traffic problem.

The BCZR do not allow for a farmer's co-op roadside stand in an RC-2 zone as a matter of right. Such use is only permitted by special exception upon the Petitioner satisfying the conditions set out in Section 502.1 of the BCZR. This Board has reviewed all of the evidence, testimony and exhibits presented to it at the hearing and is of the opinion that the conditions as set out in Section 502.1 have been met. Further, the Board finds that the Petitioner has shown that the proposed use would be conducted without any real detriment to the neighborhood and would not adversely affect the public interest. The Board does not feel that the proposed use at this site would have any adverse impact above and beyond that which is inherently associated with such a special exception use irrespective of its location within the zone. Schultz v. Pritz, 332 A.2d 1319 (1980).

Amended Opinion
Louis C. Hoffman, III, et ux, Case No. 89-414-XA

Accordingly, this Board will grant the special exception with certain restrictions as more fully set out below.

With regard to the zoning variance request, this Board finds that the variance should be granted. The Petitioner is relieved from the requirements of Section 409.8.A.2 which requires that the driveways and parking lots be paved or macadamed and is further relieved from Section 409.8.A.6 which requires that parking spaces provide striping. The testimony clearly indicates and is contradicted that a crusher run surface in lieu of an impervious surface such as macadam would be more beneficial both to the Petitioner and to the surrounding property owners since it would serve to retain and absorb the water upon the property and would prevent run-off onto other properties or surrounding areas. It is this Board's opinion that the granting of the variances would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public health, safety and general welfare.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 6th day of December, 1990 by the County Board of Appeals of Baltimore County ORDERED that the Petition Special Exception for a farmer's co-op roadside stand on the subject property and a variance from Section 409.8.A.2 to permit driveways and parking areas not to be paved or macadamed and from Section 409.8.A.6 to permit parking spaces without the required striping be and are

Amended Opinion
Louis C. Hoffman, III, et ux, Case No. 89-414-XA

hereby GRANTED, subject, however, to the following restrictions, which are conditions precedent to the relief granted.

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The farmer's co-op roadside stand shall be open for business only during daylight hours, Sunday through Saturday, but in no event shall it be open earlier than 9:00 a.m. or close later than 9:00 p.m.
3. The special exception granted herein shall terminate upon the sale and/or transfer of the subject property and/or the business to any party other than immediate family, heirs, legatees, or personal representatives.
4. Petitioners are limited to selling from the proposed farmer's co-op roadside stand only seasonal produce indigenous to the area, including, but not limited to, fresh fruit and vegetables of all types, milk, eggs, cider, preserves, honey, meats, and other dairy and farm products. No other items, goods, not limited to, artificial or manufactured articles, shall be sold from the premises. In accordance with the Remand Order of the Circuit Court for Baltimore County dated October 15, 1990, the definition of a farmer's co-op roadside stand is incorporated into this restriction. That definition under the BCZR is:

"a principal building other than a dwelling which is used by one or more individuals commonly engaged in the sale of mutually grown seasonal produce from their respective farms or satellite farms."

5. The Petitioners shall maintain their property daily by keeping it free from trash and protected from fire.
6. A detailed landscaping plan shall be submitted for approval to the Baltimore County Landscape Planner. A copy of the approved landscape plan shall be submitted to the Zoning Commissioner's office for inclusion in the case file.

Amended Opinion
Louis C. Hoffman, III, et ux, Case No. 89-414-XA

7. Compliance with all Zoning Plans Advisory Committee Comments, including, but not limited to, the comments submitted by DEPRM dated April 6, 1989, attached hereto and made a part hereof.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett, Chairman

Lynn B. Moreland

Arnold G. Foreman



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

December 6, 1990

J. Carroll Holzer, Esquire
305 W. Chesapeake Avenue
Suite 105
Towson, Maryland 21204

RE: Case No. 89-414-XA (Louis C. Hoffman, III, et ux)
Circuit Court Case No. 90-CG-917

Dear Mr. Holzer:

Pursuant to the Remand Order of the Circuit Court for Baltimore County dated October 15, 1990, enclosed please find a copy of the Amended Opinion issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,
Linda Lee M. Kuzmaul
Linda Lee M. Kuzmaul
Legal Secretary

Enclosure

cc: Dr. & Mrs. I.G. Sorrells
S. Eric DiNenna, Esquire
Mr. and Mrs. Louis C. Hoffman
Mr. and Mrs. Rudolph Fischer
Doug & Jennifer Hoffman
Ms. Ellen Hoffman
Mr. Clifton Isenrock
Ms. Katherine Tyler
Ms. Karen Reavis
Mr. Paul Lee
People's Counsel for Baltimore County
P. David Fields
Pet. Keller
Public Services
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

September 28, 1989

Dr. & Mrs. I. G. Sorrells
11919 Long Green Pike
Glen Arm, MD 21057

RE: Case No. 89-414-XA
Louis C. Hoffman, III, et ux

Dear Dr. & Mrs. Sorrells:

Enclosed is a copy of the Board's ruling on Motion to Dismiss Appeal which was issued this date by this Board in the subject matter.

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

Enc.

cc: S. Eric DiNenna, Esquire
Mr. & Mrs. Louis C. Hoffman, III
Mr. & Mrs. Rudolph Fischer
Doug & Jennifer Hoffman
Ms. Ellen Hoffman
Mr. Clifton Isenock
Ms. Katherine Tyler
Ms. Karen Reavis
Mr. Paul Lee

P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk - Zoning
W. Carl Richards, Jr.
Arnold Jablon, County Attorney

PETITIONS FOR SPECIAL EXCEPTION & VARIANCE SE OF THE INTERSECTION OF LONG GREEN PIKE AND GLEN ARM ROAD, 11th ELECTION DISTRICT, 6th COUNCILMANIC DISTRICT, LOUIS C. HOFFMAN, III, ET UX - PETITIONER

* THE BALTIMORE COUNTY
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No.: 89-414-XA

REQUEST FOR HEARING

The Petitioner/Appellees, Mr. and Mrs. Louis C. Hoffman, III, by and through their attorneys, S. Eric DiNenna, and DiNenna, Mann & Breschi, request that the above-captioned matter be set in for an immediate hearing.

S. Eric DiNenna
S. ERIC DINENNA
DINENNA, MANN & BRESCHI
P.O. Box 10508
Towson, Maryland 21285-0508
(301) 296-6820

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 29th day of June, 1989, a copy of the foregoing Motion to Dismiss Appeal was mailed, postage prepaid, to Dr. and Mrs. I. G. Sorrells, Glen Arm Road, Glen Arm, Maryland 21057 and People's Counsel of Baltimore County, Room 304, County Office Building, Towson, Maryland 21204.

S. Eric DiNenna
S. ERIC DINENNA

- 1 -

PETITIONS FOR SPECIAL EXCEPTION & VARIANCE SE OF THE INTERSECTION OF LONG GREEN PIKE AND GLEN ARM ROAD, 11th ELECTION DISTRICT, 6th COUNCILMANIC DISTRICT, LOUIS C. HOFFMAN, III, ET UX - PETITIONER

* THE BALTIMORE COUNTY
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No.: 89-414-XA

MOTION TO DISMISS APPEAL

The Petitioner/Appellees of the above-referenced matter, by and through their attorneys, S. Eric DiNenna, and DiNenna, Mann & Breschi, move that pursuant to the Rules of Practice and Procedure of the County Board of Appeals Rule 3(a) that the Appeal be dismissed for the following reasons:

1. The Petitioners, Mr. and Mrs. Louis C. Hoffman, III, filed a Request for Special Exception for a farmer's roadside stand on the subject property and a Variance from Section 409.8A.2 of the Baltimore County Zoning Regulations to permit driveways in a parking area not paved or macadamized and Section 409.8A.6 of the Zoning Regulations to permit parking spaces without stripes.

2. After a hearing on April 25, 1989 before the Deputy Zoning Commissioner, the Special Exception and Variances were granted by Decision and Order of the Deputy Zoning Commissioner dated May 3, 1989.

3. That on June 1, 1989 an appeal was filed with the Zoning Commissioner by persons, namely Dr. I. G. Sorrells and Mrs. S. Sorrells, not giving their address, a copy of which is attached hereto as Exhibit No. 1.

4. Rule 3(a) of the Rules of Practice and Procedure of the

- 1 -

County Board of Appeals provides:

No appeal shall be entertained by the Board of Appeals unless the notice of the appeal shall state the names and addresses of the persons taking such an appeal.

5. Agencies of Government are bound to observe rules, regulations or procedures which they have established. When an agency fails to do so, its action cannot stand and courts will strike it down. United States v. Heffner, 420 F.2d. 809, 811 (4th Cir. 1979); Hopkins v. Maryland Inmate Grievance Commission, 40 Md. App. 329, 335-336 (1978)

6. The Notice of the subject appeal does not contain the address of the Appellants as mandated by the County Board of Appeals Rules of Practice and Procedure, and therefore must be dismissed with prejudice.

WHEREFORE, Petitioners/Appellees, respectfully requests this Board to dismiss the subject Appeal with prejudice.

S. Eric DiNenna
S. ERIC DINENNA
DINENNA, MANN & BRESCHI
P.O. Box 10508
Towson, Maryland 21285-0508
(301) 296-6820

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 29th day of June, 1989, a copy of the foregoing Motion to Dismiss Appeal was mailed, postage prepaid, to Dr. and Mrs. I. G. Sorrells, Glen Arm Road, Glen Arm, Maryland 21057 and People's Counsel of Baltimore County, Room 304, County Office Building, Towson, Maryland 21204.

S. Eric DiNenna
S. ERIC DINENNA

- 2 -

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.

P.O. BOX 10508
TOWSON, MARYLAND 21285-0508
SUITE 600
MERCANTILE TOWSON BUILDING
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(301) 296-6820
TELEFAX (301) 296-6864

June 28, 1989

Clerk
Baltimore County Board of Appeals
111 West Chesapeake Avenue
County Office Building
Towson, Maryland 21204

RE: Zoning matter

Dear Clerk:

Enclosed please find for filing a Motion to Dismiss Appeal and Request for Hearing.

Very truly yours,

Geraldine A. Klaubner
GERALDINE A. KLAUBNER

GAK:gaw
Enclosures

00-2 114 62 NOV 68
STANDARD MICROFILMS
SERIALS

MICROFILMED

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND ZONING VARIANCE - SE of the Intersection of Long Green Pike and Glen Arm Road, 11th Election District, 6th Councilmanic District, LOUIS C. HOFFMAN, III, et ux Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-414-XA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special exception for a farmer's co-op roadside stand on the subject property, and a variance from Section 409.8A.2 to permit driveways and parking area not to be paved or macadamized and from Section 409.8A.6 to permit parking spaces without the required striping, all as more particularly described in Petitioner's Exhibit 1.

The Petitioners appeared, testified, and were represented by S. Eric DiNenna, Esquire. Also appearing on behalf of the Petition were the following residents of the area: Meredith S. Fischer, Doug, Jennifer and Ellen Hoffman, Clifton Isenock, and Katherine Tyler. Paul Lee appeared and testified on behalf of Petitioners as their engineer. Dr. & Mrs. I. G. Sorrells, adjoining property owners, appeared as interested parties.

Testimony indicated that the subject property consists of 3.128 acres split zoned R.C.2 and R.C.5, and is located on the southeast corner of Long Green Pike and Glen Arm Road. The majority of the property is zoned R.C. 2 with a small portion of the southern end zoned R.C. 5. Petitioners are requesting a special exception and variances in order to establish a farmer's co-op roadside stand on the subject property.

Petitioners had previously requested and were granted a special exception for a farmer's co-op roadside stand and a variance for crusher run surface instead of a paved surface on June 22, 1984 by the then Zoning

ORDER FOR FILING
Date 5/13/89
By *[Signature]*

MICROFILMED

Commissioner, Arnold Jablon, in Case No. 84-340-XA. Petitioners' request was granted subject to restrictions set forth therein. Subsequent to the granting of the Petitions, a timely appeal was filed by People's Counsel. The case file reflects that an appeal hearing did not take place as a result of a zoning change of the property which took place in the 1984 comprehensive zoning map process which changed the zoning of the property from R.C. 2 to R.C. 5. While the Petitioners request is permitted by special exception in an R.C. 2 zone, the R.C. 5 zone does not permit such use. Further, as a result of the zoning change, the June 22, 1984 Order was no longer of any consequence and People's Counsel subsequently dismissed their appeal and Petitioners withdrew their request for special exception. Petitioners are now resubmitting their request as a result of the 1988 comprehensive zoning map process which changed the zoning of the subject property back to R.C. 2.

Testimony indicated the Petitioners purchased the subject property in 1981 and as presented in the 1984 case would like to operate a farmer's co-op roadside stand on the southeastern corner of Long Green Pike and Glen Arm Road in the R.C. 2 zoned portion of the property. Testimony indicated Petitioners operate orchards from which they produce fruit. Petitioners are desirous of expanding their operation by including a roadside stand at the subject site where theirs and other farmers' produce would be sold to the community. Petitioners contend the use is appropriate in light of the area surrounding the subject property being a mixture of R.C. 5, commercial, manufacturing, and office zones. Further testimony presented by the Petitioners was of the need and benefit to the community of a roadside stand. To support Petitioners testimony, Petitioners introduced as Exhibits 2A, 2B and 2C, letters from the Summerfield Farms Associ-

ORDER FOR FILING
Date 5/13/89
By *[Signature]*

- 2 -

MICROFILMED

ation, Inc., Northeastern Baltimore County Business Association, and Edward L. Blanton, Jr., Esquire, as counsel for the Long Green Valley Association, which indicated their support for Petitioners' request. Additionally, Petitioners introduced as Petitioner's Exhibit 3 a Petition with over 300 signatures of individuals supporting Petitioners' request. Many of the individuals signing the Petition reside or work in the area of the proposed farmer's co-op roadside stand.

Testimony indicated the Petitioners propose constructing an 80' x 40' building constructed of logs, as set forth in Petitioner's Exhibit 5, with an entrance on Long Green Pike. Petitioners propose to sell fruit, vegetables, eggs, cider, milk, preserves, honey, meats, and other dairy and seasonal farm products. Testimony indicated these items would be supplied by the Petitioners as well as other farmers in the area. Petitioners further requested that the hours of operation be from daylight to nightfall, Tuesday through Sunday. Petitioners indicated that at no time would the hours be later than nightfall as there would be no exterior lighting and/or need to keep the business open.

Testimony presented indicated that the request for the variance to allow a crusher run surface in lieu of the required paving is believed to be more appropriate for maintaining water runoff and the agricultural character of its zoning classification. Petitioners further noted that DEPRM recommended approval of their request provided certain conditions be met as set forth in their letter dated April 6, 1989. Petitioners testified said conditions could and would be met. Testimony further presented by Petitioners indicated that any and all signs erected would be in strict compliance with the Baltimore County Zoning Regulations (B.C.Z.R.) and that a design plan would be submitted to the Deputy Zoning Commissioner

ORDER FOR FILING
Date 5/13/89
By *[Signature]*

MICROFILMED

- 3 -

for approval to insure that there would be no adverse visual impact on the rural integrity of the surrounding land or interference with the sight distance from the roads. Petitioners further testified that the conditions delineated in Section 502.1 of the B.C.Z.R. would be satisfied and there would be no adverse impact on the community.

Meredith Fischer and Katherine Tyler testified as to the benefit in their opinion the proposed farmer's co-op roadside stand would provide to the community and surrounding areas.

Dr. & Mrs. Sorrells, the adjoining property owner, testified as to their concerns of the proposed farmer's co-op roadside stand being similar to a convenience store which the regulations do not intend. In response to their concerns, Petitioners reiterated that the items sold would be limited to dairy, farm and other seasonal products. Further, they questioned whether or not a proposed location would cause congestion or adverse traffic patterns on Long Green Pike.

It is clear that the B.C.Z.R. permits the use proposed in the R.C. 2 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse

verse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soloy, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances regarding parking requirements are granted, such use as proposed would not be con-

trary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petitions for Special Exception and Zoning Variance should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 31st day of May, 1989 that the Petition for Special Exception for a farmer's co-op roadside stand on the subject property, and a variance from Section 409.8A.2 to permit driveways and parking area not to be paved or macadamized and from Section 409.8A.6 to permit parking spaces without the required striping, all as more particularly described in Petitioner's Exhibit 1, be and are hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) The farmer's co-op roadside stand shall be open for business only during daylight hours, Sunday through Saturday, but in no event shall it be open earlier than 9:00 AM or close later than 9:00 PM.
- 3) The special exception granted herein shall terminate upon the sale and/or transfer of the subject property and/or the business to any party other than immediate family, heirs, legatees, or personal representatives.
- 4) Petitioners are limited to selling from the proposed farmers' co-op roadside stand only seasonal produce indigenous to the area, including, but not

limited to, fresh fruit and vegetables of all types, milk, eggs, cider, preserves, honey, meats, and other dairy and farm products. No other items, goods, foods, or other materials of any kind, including, but not limited to, artificial or manufactured articles, shall be sold from the premises.

5) The Petitioners shall maintain their property daily by keeping it free from trash and protected from fire.

6) A detailed landscaping plan shall be submitted for approval to the Baltimore County Landscape Planner. A copy of the approved landscape plan shall be submitted to the Zoning Commissioner's Office for inclusion in the case file.

7) Compliance with all Zoning Plans Advisory Committee Comments, including, but not limited to, the comments submitted by DEPRM dated April 6, 1989, attached hereto and made a part hereof.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

MICROFILMED

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for Farmer's co-op roadside stand.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Legal Owner(s):

Louis C. Hoffman, III

(Type or Print Name)

Signature

Nancy C. Hoffman

(Type or Print Name)

Signature

Attorney for Petitioner:

S. Eric DiNenna, Esquire

(Type or Print Name)

Signature

Address

City and State

P.O. Box 203

Address

City and State

Glen Arm, Maryland 21057

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

S. Eric DiNenna, Esquire

Name

P.O. Box 21285-0508

Address

Towson, Maryland 21285-0508

City and State

Attorney's Telephone No.: 296-6820

(301)296-6820

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 31st day of May, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 31st day of April, 1989, at 10 o'clock A.M.

ANN M. NASTAROWICZ

Deputy Zoning Commissioner

for Baltimore County

MICROFILMED

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 409.8A.2 to provide driveways and parking area not to be paved or macadamized, but to provide gravel or surface, and 409.8A.6 to allow parking spaces without required striping.

The Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

1. Rural area
2. To provide proper drainage of water, etc.
3. Other reasons to be given at time of hearing

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Legal Owner(s):

Louis C. Hoffman, III

(Type or Print Name)

Signature

Nancy C. Hoffman

(Type or Print Name)

Signature

Attorney for Petitioner:

S. Eric DiNenna, Esquire

(Type or Print Name)

Signature

Address

City and State

P.O. Box 203

Address

City and State

Glen Arm, Maryland 21057

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

S. Eric DiNenna, Esquire

Name

P.O. Box 10508

Address

Towson, Maryland 21285-0508

City and State

Attorney's Telephone No.: 226-6820

(301)296-6820

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 31st day of May, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 31st day of April, 1989, at 10 o'clock A.M.

ANN M. NASTAROWICZ

Deputy Zoning Commissioner

for Baltimore County

ESTIMATED LENGTH OF HEARING - 1/2 HR.

AVAILABLE FOR HEARING

MON. TUES. WED. - NEXT TWO WEEKS

FILED BY 4/22/89 DATE 4/22/89

MICROFILMED

Paul Leo Engineering Inc.
308 W. Pennsylvania Ave.
Towson, Maryland 21204
821-5341

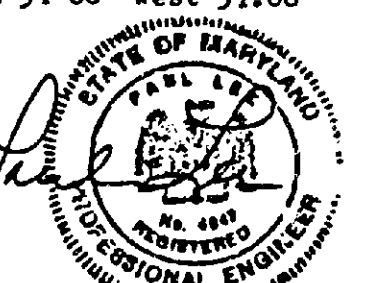
DESCRIPTION

SOUTHEAST CORNER LONG GREEN PIKE AND GLEN ARM ROAD - ELEVENTH ELECTION

DISTRICT - BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point, said point being located at the intersection of the centerline of Long Green Pike and Glen Arm Road, thence binding along the centerline of Long Green Pike (1) S 30°19'55" West 277.82 feet, thence leaving said centerline of Long Green Pike the eight following courses and distances: (2) S 43°23'35" East 23.72 feet, (3) S 85°36'35" East 103.07 feet, (4) S 70°49'45" East 59.53 feet, (5) S 17°42'35" East 33.41 feet, (6) S 71°47'35" West 15.56 feet, (7) N 63°59'35" West 60.00 feet (8) N 85°36'35" West 114.65 feet, (9) N 43°23'35" West 26.54 feet to the centerline of Long Green Pike, thence binding along the centerline of Long Green Pike (10) S 30°19'55" West 120.60 feet, thence leaving the centerline of Long Green Pike (11) N 84°08'10" East 525.31 feet, and (12) N 42°50'00" East 254.12 feet to a point in the paving of Glen Arm Road, thence binding in the paving Glen Arm Road (13) N 79°53'00" West 104.00 feet, (14) N 76°33'00" West 100.00 feet, (15) N 75°40'00" West 100.00 feet, (16) N 70°35'00" West 100.00 feet, (17) N 70°19'20" West 67.66 feet, thence (18) S 09°06'40" West 15.00 feet, and (19) N 42°34'00" West 31.68 feet to the place of beginning.

Containing 3.128 acres of land, more or less.



Engineers - Surveyors - Site Planners

1/31/89

89-414-XH

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11E4 Date of Posting: 6/19/89

Posted for: Appeal

Petitioner: Louis C. Hoffmann, III et al.

Location of property: SE Long Green Pk. & Glen Ar. Rd.

Location of Sign: Facing intersection of Long Green Pk. & Glen Ar. Rd., across 10 ft. median on property of All Home

Remarks: _____

Posted by: W.H. [Signature] Date of return: 6/23/89

Number of Signs: 1

CIRCUIT COURT FOR BALTIMORE COUNTY

88-116-73

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
8th day of March, 1989.

J. Robert Haines
ROBERT HAINES
ZONING COMMISSIONER

Petitioner Louis C. Hoffman, III, et
Petitioner's Attorney S. Eric Williams ux

Received by: Wesley B. Davis
Chairman, Zoning Plans
Advisory Committee

MICROFILMED

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21285-6754

June 20, 1990

Dr. & Mrs. I.G. Sorells (P.P.)
1919 Long Green Pike
Glen Arm, Maryland 21057

J. Carroll Holzer, Esq.
County Board of Appeals
Arnold Jablon, Esq.
S. Eric DiNenna, Esq.

RECEIVED
COUNTY BOARD OF APPEALS
90 JUL -3 11:14:42
MICROFILMED

EDMUND NELAN ET AL IN THE MATTER OF THE APPLICATION OF LOUIS C. HOPPMAN, III

SEPTEMBER 18, 1990 @ 9:30 A.M.

2 HOURS

See the below notations.

NOTE: Counsel must contact each other immediately to conform calendars. Claim of not receiving notice will not

be acceptable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE. REQUESTS FOR A POSTPONEMENT PRIOR TO 30 DAYS OF TRIAL should be directed to the attention of the Assignment Office. REQUESTS FOR A POSTPONEMENT AFTER 30 DAYS OF TRIAL should be directed to the attention of the Director of Central Assignments-Joyce Grimm-887-3497.

if reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put in writing and filed prior to trial.

*Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3553*

*J. Robert Haines
Zoning Commissioner*

Date: 4-3-89

Mr. & Mrs. Louis C. Hoffman
P. O. Box 203
Glen Arm, Maryland 21057

Re: Petitions for Special Exception and Zoning Variance
CASE NUMBER: 89-414-XA
SE Intersection Long Green Pike and Glen Arm Road
11th Election District - Eld Councilmanic
Petitioner(s): Louis C. Hoffman, III
HEARING SCHEDULED: TUESDAY, APRIL 25, 1989 at 10:00 a.m.

*Dennis F. Rasmussen
County Executive*

Dear Mr. & Mrs. Hoffmann:

Please be advised that ⁴108.60 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED
ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

Please note that should you fail to return the sign and post set(s), there will be an additional \$25.00 added to the above fee for each set not returned.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

MICROFILMED

JRH:gs
cc: S. Eric DiNenna, Esq.
File

[illegible]

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

J. Robert Haines
Zoning Commissioner

March 9, 1989

NOTICE OF HEARING

Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Exception and Zoning Variance
CASE NUMBER: 89-414-XA
SE Intersection Long Green Pike and Glen Arm Road
11th Election District - 6th Councilmanic District
Petitioner(s): Louis C. Hoffman, III
HEARING SCHEDULED: TUESDAY, APRIL 25, 1989 at 10:00 a.m.

Special Exceptions Farmer's co-op roadside stand.
Variance to provide driveways and parking area not to be paved or macadamized, but to provide crusher run surface and to allow parking spaces without required striping.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Louis C. Hoffman, III
S. Eric DiNenna, Esq.
File

MICROFILMED



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 494-3333

HEARING ROOM -
Room 301, County Office Building

August 30, 1989

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-414-XA LOUIS C. HOFFMAN, III, ET UX
SE of the intersection of Long Green Pike and Glen Arm Road
11th Election District
6th Councilmanic District

SE - Farmer's co-op roadside stand
VAR - driveways and parking area of crusher run surface not paved or macadamized and parking spaces without required striping.

5/3/89 - D.Z.C.'s Order Granting Petitions with restrictions.

ASSIGNED FOR: TUESDAY, SEPTEMBER 19, 1989 at 9:00 a.m. (NOTION TO DISMISS ONLY)

cc: S. Eric DiNenna, Esquire Counsel for Petitioners

Mr. and Mrs. Louis C. Hoffman, III

Dr. and Mrs. I. G. Sorrells

Appellants

Mr. and Mrs. Rudolph Fischer

Doug and Jennifer Hoffman

Ms. Ellen Hoffman

Mr. Clifton Isennoek

Ms. Katherine Tyler

Ms. Karen Reavis

Mr. Paul Lee

Pat Keller

J. Robert Haines

Ann M. Nastarowicz

James E. Dyer

W. Carl Richards, Jr.

Docket Clerk - Zoning

Arnold Jablon, County Attorney

LindaLee M. Kuszmaul
Legal Secretary



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 494-3333

HEARING ROOM -
Room 301, County Office Bldg.

October 3, 1989

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-414-XA LOUIS C. HOFFMAN, III, ET UX
SE of the intersection of Long Green Pike and Glen Arm Road
11th Election District
6th Councilmanic District

SE - Farmer's co-op roadside stand
VAR - driveways and parking area of crusher run surface not paved or macadamized and parking spaces without required striping.

5/3/89 - D.Z.C.'s Order GRANTING Petitions with restrictions.

ASSIGNED FOR: FRIDAY, DECEMBER 15, 1989 at 10:00 a.m.

cc: S. Eric DiNenna, Esquire Counsel for Petitioners

Mr. and Mrs. Louis C. Hoffman, III

Dr. and Mrs. I. G. Sorrells

Mr. and Mrs. Rudolph Fischer

Doug and Jennifer Hoffman

Ms. Ellen Hoffman

Mr. Clifton Isennoek

Ms. Katherine Tyler

Ms. Karen Reavis

Mr. Paul Lee

P. David Fields

Pat Keller

J. Robert Haines

Ann M. Nastarowicz

James E. Dyer

W. Carl Richards

Docket Clerk - Zoning

Arnold Jablon, County Attorney

LindaLee M. Kuszmaul
Legal Secretary

*Revised notice sent
10/26/89 changing
time to 9:00 am
on 12/15/89*



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 494-3333

HEARING ROOM -
Room 301, County Office Bldg.

October 26, 1989

REVISED NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-414-XA LOUIS C. HOFFMAN, III, ET UX
SE of the intersection of Long Green Pike and Glen Arm Road
11th Election District
6th Councilmanic District

SE - Farmer's co-op roadside stand
VAR - driveways and parking area of crusher run surface not paved or macadamized and parking spaces without required striping.

5/3/89 - D.Z.C.'s Order GRANTING Petitions with restrictions.

ASSIGNED FOR: FRIDAY, DECEMBER 15, 1989 at 9:00 a.m.

cc: S. Eric DiNenna, Esquire Counsel for Petitioners

Mr. and Mrs. Louis C. Hoffman, III

Dr. and Mrs. I. G. Sorrells

Mr. and Mrs. Rudolph Fischer

Doug and Jennifer Hoffman

Ms. Ellen Hoffman

Mr. Clifton Isennoek

Ms. Katherine Tyler

Ms. Karen Reavis

Mr. Paul Lee

P. David Fields

Pat Keller

J. Robert Haines

Ann M. Nastarowicz

James E. Dyer

W. Carl Richards

Docket Clerk - Zoning

Arnold Jablon, County Attorney

LindaLee M. Kuszmaul
Legal Secretary

*11/26/89 Postponed @ request of
Counsel for the Petitioners
reset for 12/26 @ 1:30 p.m.*



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 494-3333

HEARING ROOM -
Room 301, County Office Bldg.

November 29, 1989

NOTICE OF POSTPONEMENT AND REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-414-XA LOUIS C. HOFFMAN, ET UX
SE of the intersection of Long Green Pike and Glen Arm Road
11th Election District
6th Councilmanic District

SE - Farmer's co-op roadside stand
VAR: driveways and parking area of crusher run surface not paved or macadamized and parking spaces without required striping.

5/3/89 - D.Z.C.'s Order GRANTING Petitions with restrictions.

which was scheduled for December 15, 1989 has been POSTPONED at the request of S. Eric DiNenna, Esquire, Counsel for the Petitioner due to a Circuit Court conflict and has been

REASSIGNED FOR: TUESDAY, DECEMBER 26, 1989 at 1:30 p.m.

cc: S. Eric DiNenna, Esquire Counsel for Petitioners

Mr. and Mrs. Louis C. Hoffman, III

Dr. and Mrs. I. G. Sorrells

Mr. and Mrs. Rudolph Fischer

Doug and Jennifer Hoffman

Ms. Ellen Hoffman

Mr. Clifton Isennoek

Ms. Katherine Tyler

Mr. Paul Lee

P. David Fields

Pat Keller

J. Robert Haines

Ann M. Nastarowicz

James E. Dyer

Docket Clerk - Zoning

Arnold Jablon, County Attorney

LindaLee M. Kuszmaul
Legal Secretary

MICROFILMED

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

April 5, 1989

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

cc:

S. Eric DiNenna, Esquire
P.O. Box 10508
Towson, MD 21285

RE: Item No. 360, Case No. 89-414-XA
Petitioner: Louis C. Hoffman, III, et ux
Petition for Special Exception and
Zoning Variance

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Dear Mr. DiNenna:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer, Jr.
Chairman

Zoning Plans Advisory Committee

JED:jw

Enclosures

MICROFILMED

cc: Mr. & Mrs. Louis C. Hoffman, III
P. O. Box 203
Glen Arm, MD 21057

MICROFILMED

Baltimore County
Fire Department
Towson, Maryland 21204-2386
494-4500

Paul H. Reincke
Chief

J. Robert Haines, Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
Towson, Maryland 21204

Re: Property Owner: Louis C. Hoffman, III, et ux

Location: SE Intersection of Long Green Pike and Glen Arm Rd.

Item No.: 360 Zoning Agenda: March 7, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.

(X) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time. Water for fire protection shall be provided in accordance with the Urban Guide for Fire Prevention & Control Master Planning.

REVIEWER: [Signature] 3-12-89
Planning Group
Special Inspection Division

NOTED & APPROVED: [Signature]
Fire Prevention Bureau

/s/

MICROFILMED

BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

3/2/89
Date

3/2/89
Date

Microfilmed

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Zoning Item # 360, Zoning Advisory Committee Meeting of March 7, 1989

Property Owner: Louis C. Hoffman, III, et ux

Location: SE corner of Long Green Pike and Glen Arm Road District: 11

Water Supply: private Sewage Disposal: private

COMMENTS ARE AS FOLLOWS:

- () Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Bureau of Regional Community Services, for final review and approval.
- () Prior to new installation(s) of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 887-3775, to obtain requirements for such installation(s) before work begins.
- () A permit to construct from the Bureau of Quality Management is required for such items as spray paint processes, underground gasoline storage tank(s) (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- () A permit to construct from the Bureau of Air Quality Management is required for any charcoal generation which has a total cooking surface area of five (5) square feet or more.
- () Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service, must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.
- () Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other appurtenances pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Water Quality Monitoring Section, Bureau of Regional Community Services, 887-6500 x 315.
- () Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.
- () If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with the State Department of the Environment.
- () Prior to raising of existing structure(s), petitioner must contact the Division of Waste Management at 887-3745, regarding removal and/or disposal of potentially hazardous materials and solid wastes. Petitioner must contact the Bureau of Air Quality Management regarding removal of asbestos, 887-3775.
- () Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Waste Management at 887-3745.
- () Soil percolation tests, have been conducted.
 - () The results are valid until
 - () Soil percolation test results have expired. Petitioner should contact the Division of Water and Sewer to determine whether additional tests are required.
- () Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.
- () In accordance with Section 13-117 of the Baltimore County Code, the water well yield test
 - () shall be valid until
 - () is not acceptable and must be retested. This must be accomplished prior to conveyance of property and approval of Building Permit Applications.
- () Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- () If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted. For more information contact the Division of Environmental Management at 887-3980.
- () In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County. If there are any questions regarding the subdivision process, please contact the Land Development Section at 887-2762.
- () Others

BUREAU OF WATER QUALITY AND RESOURCE MANAGEMENT

Baltimore County
Department of Environmental Protection
& Resource Management
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
(301) 887-3733

Bureau of Air Quality Management
300 East Towson Boulevard
Towson, Maryland 21204
(301) 887-3775

April 6, 1989

Robert W. Sheehy
Director

Dennis F. Rasmussen
County Executive

Mr. J. Robert Haines, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

Comments on Zoning Advisory Committee Meeting, Item #360 are as follows:

Property Owner: Louis C. Hoffman, III
Location: SE Corner Long Green Pike & Glen Arm Road
Existing Zoning: RC-5
Proposed Zoning: RC-2 with Special Exception for "Farmer's Co-op Roadside Stand." Petitioner requesting a variance to Section 409.8 A-2 to allow the driveway and parking areas not to be paved or macadamized but to have a crusher run surface.

Area: 3.128 acres ±
District: 8th Election District

This office recommends approval for crusher run in lieu of macadam provided provisions of COMAR 26.11.06.03.D are complied with. The control of airborne particulate (ABP) for this site should consist of the following:

1. With the on-set of increased activity, an assessment to add or replenish crusher run is to be made especially in areas of ingress and egress and other heavily used areas.
2. Calcium chloride is to be appropriately applied subsequently after each application of new/added crusher run to ensure the control of ABP fines with each delivery.
3. To become sensitive to ABP complaints from the community adjacent to this 118,000 SF crusher run surface and take the appropriate control measures to ensure the control of ABP at this site.

RECEIVED
APR 14 1989

ZONING OFFICE

MICROFILMED

RECEIVED
APR 10 1989
WATER AND SEWER

Mr. J. Robert Haines
Page 2
April 6, 1989

4. Information copies of calcium chloride and crusher run purchases to be made available upon request of this office relative to any complaint investigations initiated by this office.

Very truly yours,

Robert C. Merrey, Jr., Director
Division of Support Services
Bureau of Air Quality Management

RCH/als/HL

MICROFILM

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

DATE: April 21, 1989

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

Case No. 89-414-XA
Item No. 360

Re: Louis C. Hoffman, III, et ux

The Petitioners request a special exception for a farmer's co-op roadside stand and a variance to allow a crusher run, surface in lieu of the required paving and to allow a parking area without the required macadamized but to have a crusher run surface.

This office supports the requested special exception and has no comment on the paving type.

A:42589.txt pg.2

MICROFILM

APPEAL

Petitions for Special Exception and Zoning Variance
SE of the Intersection of Long Green Pike and Glen Arm Road
11th Election District - 6th Councilmanic District
LOUIS C. HOFFMAN, III ET UX - Petitioners
Case No. 89-414-XA

Petition for Special Exception

Petition for Zoning Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None Submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Director of Support Services Comments

Petitioner's Exhibits:

1. Plat to accompany petitions
- 2A, 2B, 2C - Letters of support from the Summerfield Farms Community Association
3. Petition of Support from neighbors
4. Photographs of location
5. Copy of Order from Case No. 84-340-XA
6. Copy of Zoning Map of "Subject Site"

Deputy Zoning Commissioner's Order dated May 3, 1989 (Granted w/ Restrictions)

Notice of Appeal received from Dr. & Mrs. I. G. Sorrells on June 1, 1989.

cc: Mr. & Mrs. Louis C. Hoffman, III, P.O. Box 203, Glen Arm, MD 21057

S. Eric DiNenna, Esquire, P.O. Box 10508, Towson, MD 21265-0508

Mr. & Mrs. Rudolph Fischer
12234 Long Green Pike, Glen Arm MD 21057

Doug & Jennifer Hoffman, 12074 Glen Arm Road, Glen Arm, MD 21057

Ellen Hoffman, 12070 Glen Arm Road, Glen Arm, MD 21057

Clifton Isenock, 12072 Glen Arm Road, Glen Arm, MD 21057

Katherine Tyler, 12601 Long Green Pike, Glen Arm, MD 21057

MICROFILMED

Appeal - Case No. 89-414-XA
Louis C. Hoffman, III, et ux - Petitioners
June 8, 1989
Page 2

Clifton Isenock, 12072 Glen Arm Road, Glen Arm, MD 21057

Katherine Tyler, 12601 Long Green Pike, Glen Arm, MD 21057

Paul Lee, 304 W. Pennsylvania Avenue, Towson, MD 21204

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

File

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
1111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

August 29, 1989

S. Eric DiNenna, Esquire
DiNenna, Mann & Breschi
P.O. Box 10508
Towson, Maryland 21265-0508

Re: Case No. 89-414-XA
Louis C. Hoffman, III, et ux

Dear Mr. DiNenna:

The Board is in receipt of a Motion to Dismiss Appeal in Case No. 89-414-XA, Louis C. Hoffman, III and others dated June 29, 1989. On July 27, 1989 and again on August 16, 1989, a letter reaffirming the request for a ruling on the Motion was received in this office. In consideration of these requests for Hearing on the Motion, the Board will schedule a Hearing for 9:00 a.m. on September 19, 1989 with specific instructions that no testimony or evidence will be received.

The Board will hear only arguments on the Motion to Dismiss. No further notice of this Hearing or arguments on the Motion will be afforded.

Very truly yours,

William T. Hackett
William T. Hackett, Chairman
County Board of Appeals

WTH:lmk

cc: Dr. and Mrs. I. G. Sorrells
People's Counsel for Baltimore County

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

June 8, 1989

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petitions for Special Exception & Variance
SE of the Intersection of Long Green Pike and Glen Arm Road
11th Election District, 6th Councilmanic District
LOUIS C. HOFFMAN, III, ET UX - Petitioner
Case No. 89-414-XA

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on June 1, 1989 by Dr. & Mrs. I.G. Sorrells. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,
J. Robert Haines
Zoning Commissioner

JRH:cer

Enclosures

cc: Mr. & Mrs. Louis C. Hoffman, III, P.O. Box 203, Glen Arm, MD 21057

S. Eric DiNenna, Esquire, P.O. Box 10508, Towson, MD 21265-0508

Mr. & Mrs. Rudolph Fischer
12234 Long Green Pike, Glen Arm MD 21057

Doug & Jennifer Hoffman, 12074 Glen Arm Road, Glen Arm, MD 21057

Ellen Hoffman, 12070 Glen Arm Road, Glen Arm, MD 21057

MAILED
JUN 12 1989
COUNTY BOARD OF APPEALS

Appeal - Case No. 89-414-XA
Louis C. Hoffman, III, et ux - Petitioners
June 8, 1989
Page 2

Paul Lee, 304 W. Pennsylvania Avenue, Towson, MD 21204

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
Docket Clerk

MICROFILMED

8/30/89 - Notice of Assignment for Hearing on MOTIONS ONLY sent to the following parties:
Assigned for Tuesday, September 19, 1989 at 9:00 a.m.

S. Eric DiNenna, Esq.
Mr. and Mrs. Louis C. Hoffman, III
Dr. and Mrs. I. G. Sorrells
Mr. and Mrs. Rudolph Fischer
Doug and Jennifer Hoffman
Ms. Ellen Hoffman
Mr. Clifton Isenbeck
Ms. Katherine Tyler
Ms. Karen Reavis
Mr. Paul Lee
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

9/09/89 - Hearing held on Motion to Dismiss ONLY; Ruling to be issued by Board.

9/23/89 - Ruling on Motion to Dismiss - DENIED.

10/3/89 - Above parties notified of hearing set for December 15, 1989 at 10:00 a.m.

10/26/89 - Revised Notice of Assignment sent to above parties changing time to 9:00 a.m. on December 15, 1989.

LOUIS C. HOFFMAN, III, ET UX

#89-414-XA

SE of the intersection of Long Green Pike
and Glen Arm Road

11th Election District
6th Councilmanic District

SE - farmer's roadside co-op stand.
VAR - to provide driveways and parking area not to be
paved or macadamized, but to provide crusher run
surface and allow parking spaces without required
striping.

March 1, 1989 Petition filed by Mr. and Mrs. Hoffman for farmer's roadside co-op
stand and crusher run surface driveways and parking area and parking
spaces without required striping.
May 3 Order of the D.Z.C. GRANTING Petitions with restrictions.
June 1 Notice of Appeal received from Dr. and Mrs. I.G. Sorrells, Protestants.
June 29 Motion to Dismiss Appeal received from S. Eric DiNenna, Esquire, Counsel
for Mr. and Mrs. Hoffman, the Petitioners.
July 14 Response to Motion to Dismiss filed by Dr. and Mrs. I.G. Sorrells.
September 19 Hearing before the Board (HRM). (Motion to Dismiss only)
September 28 Ruling on Motion to Dismiss - DENIED. (Hackett, Sauer, Moreland).
December 26 Hearing before the Board on appeal (HRF).
February 9, 1990 Opinion and Order of the Board GRANTING Petitions with restrictions.
(Hackett, Sauer, Foreman).
March 9 Notice of Appeal filed by Edmund Nelan, Carroll T. Spurry, John
C. Morgan, and Dr. and Mrs. I.G. Sorrells in the CCT, BCO.
April 6 Petition to accompany appeal filed in the CCT, BCO.
March 12 Certificate of Notice sent.
April 6 Transcript of testimony filed; Record of Proceedings filed.
July 23 Letter to Clerk's Office, CCT from J. Carroll Holzer, Esq. forwarding
to the Court a supplemental letter dated July 11, 1990 from
William T. Hackett, Chairman, CBA, and a copy of a letter dated
July 17, 1990 from S. Eric DiNenna, Esq.; said letter from
Chairman Hackett to serve as substitute record of hearing of
September 19, 1990 re arguments on Motion to Dismiss filed by
Mr. DiNenna (Court reporter's notes cannot be located for
9/19/90 hearing).
October 16 Order of the Circuit Court that matter be REMANDED to the Board to
include in Restriction #4 without a hearing the definition of
Farmer's Co-Op Roadside Stand. (Leonard S. Jacobson, Judge)

MICROFILMED



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

HEARING ROOM
Room 301, County Office Building

APPEAL HEARINGS SCHEDULED THE WEEK

OF DECEMBER 25, 1989

TUESDAY 12/26/89 10:00 a.m. CHRISTINE CHIOFOLIO
#85-318-SPH RE/s St. George Rd., 825'
(ON REMAND FROM CIRCUIT SE from Middleborough Road
COURT) (327 St. George Road)
15th Election District
SPH - nonconforming use for 3 dwellings
and the expansion of 1 dwelling
TUESDAY 12/26/89 1:30 p.m. #89-414-XA
LOUIS C. HOFFMAN, ET UX
SE of intersection of Long Green Pike
& Glen Arm Road
11th Election District
6th Councilmanic District
SE - roadside stand
VAR - driveways and parking areas
WEDNESDAY 12/27/89 10:00 a.m. #89-226-XA
CORNELIUS W. DEMOSS, JR., ET UX
W/s Summit Ave., 823' S of Homeland
Avenue (3205 Summit Avenue)
11th Election District
6th Councilmanic District
SE - residential kennel
VAR - setbacks
WEDNESDAY 12/27/89 1:00 p.m. #CBA-89-175
MAROGANY PARK, N end of Real Princess
Lane, NW of Featherbed Lane
2nd Election District
2nd Councilmanic District
RE: CRO Decision
THURSDAY 12/28/89 HEARING ROOM NOT AVAILABLE FOR CBA HEARING
FRIDAY 12/29/89 10:00 a.m. #CBA-89-165
TOWSON COMMONS, W/s York Road between
Chesapeake and Pennsylvania Avenues
9th Election District
4th Councilmanic District
RE: CRO Decision
cc: Executive Office AND 90-130-SPHA TOWSON COMMONS LTD. PART.
County Council W/s York Rd. between S/s of Penn. Ave.
Law Office and the W/s Chesapeake Ave.
People's Counsel 9th Election District; 4th Councilmanic District
Planning Office SPH - modified plan for parking spaces
Current Planning Board Members Board Members - setbacks; height and projection, open space
Court Reporter and parking requirements.
Information Desks (2) MICROFILMED
Docket Clerk - Zoning



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

July 11, 1990

J. Carroll Holzer, Esquire
Suite 105, 305 W. Chesapeake Avenue
Towson, MD 21204

S. Eric DiNenna, Esquire
P.O. Box 10508
Towson, MD 21285-0508

Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
Towson, MD 21204

Dear Counsel:

RE: Case No. 89-414-XA
Louis C. Hoffman, III, et ux

On September 19, 1989, in Case No. 89-414-XA, a hearing was
held on a Motion to Dismiss the appeal taken by the Sorrells, said
Motion filed by S. Eric DiNenna, Esquire, representing the
Hoffmans. The actual transcript of this Motion hearing cannot be
found. What follows in this epistle is a reconstruction of the
arguments presented as reflected in the notes taken by the Board
at the hearing.

Mr. DiNenna first argued regarding the history of the site.
In the early 1980's, the site was zoned R.C. 2 and a Petition for
Special Exception to permit a roadside stand was granted with some
restrictions. This decision was appealed to the upper Courts
while still pending in the upper Courts, the 1984 Comprehensive Map
Process took place, and the site was rezoned to R.C. 5, which does
not permit a roadside stand. In the 1988 Comprehensive Map
Process, the site was once again reclassified to R.C. 2, a Petition
for Special Exception to permit a roadside stand was filed, and was
granted by the Board of Appeals. The Sorrells then filed an appeal
from this granting. Ms. Klauber, co-counsel with Mr. DiNenna,
argued that the Board is governed by the Rules in Appendix G in
which no appeal shall be entertained unless the Notice of Appeal
contains the names and addresses of those taking the appeal. Ms.
Klauber especially noted that Rule 3 contains the word "shall."
Baltimore County Charter, Section 603, allows the Board to adopt
these Rules of Procedure which must be adhered to. It was her
argument that the Petitioners had to follow the strict Rules of
Procedure. Therefore, the Appellants should also follow the Rules
of Procedure and that the lack of the name and the address negated
this appeal.

MICROFILMED

Louis C. Hoffman, et ux Case No. 89-414-XA 2

Peter Max Zimmerman represented the Office of People's Counsel
and asked that the Appellant be allowed to testify. Petitioner's
counsel adamantly objected to this, stating that any testimony
received by the Appellant would be immaterial since the matter
before the Board was strictly a legal argument. Mr. Zimmerman then
proffered that the Appellant was following the advice of the Zoning
Office. After further argument, Mrs. Sorrells was allowed to
testify.

Mrs. Sorrells testified at the hearing before the Zoning
Commissioner, received a copy of the Zoning Commissioner's Order,
wrote a letter of appeal, delivered it personally to the Deputy
Zoning Commissioner with a check for the filing fee, said check
containing her name and address, and asked if this appeal was in
order. The Deputy Zoning Commissioner assured Mrs. Sorrells that
her appeal was duly noted and that she had complied with the
necessary requirements.

Mr. DiNenna then argued that misadvice is not the fault of the
Petitioners. If Appellants rely upon misadvice, and it is in
error, they are then also in error. The Board on the other hand
is bound by the Charter to follow and abide by the Rules adopted
by the Charter. Mr. Zimmerman then argued that some areas of the
Rules are jurisdictional. For example, timeliness is not
jurisdictional. This case is somewhat precedent-setting and may
be jurisdictional. Mr. DiNenna then finally argued that the Board
should rule according to the law. The Zoning Commissioner's Office
should be advised that the Rules must be followed. It was his
contention that he never saw a copy of the check containing the
name and address, that the check did not appear as part of the case
until it was returned cancelled to the Sorrells and a copy was
mailed to the Board office and was not a part of the physical
appeal documents as received by the Board. Therefore, the name and
address was missing when the appeal was filed.

This basically summarizes the arguments presented as
reconstructed from the Board's notes. It should be further noted
that a written Ruling on the Motion dated September 28, 1989, was
issued by the Board in Case No. 89-414-XA.

Very truly yours,

William T. Hackett
William T. Hackett, Chairman
County Board of Appeals

WTH:kcw

MICROFILMED

DiNENNA, MANN & BRESCHI

ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.

SUITE 400
MERCANTILE TOWSON BUILDING
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(301) 296-6820
TELEFAX (301) 296-6884

June 13, 1990

Clerk
Circuit Court for Baltimore County
Assignment Office
County Courts Building
401 Bosley Avenue
P. O. Box 6754
Towson, Maryland 21285-6754

RE: Case No. 90CG-917
Nelan, et al. v. Hoffman

Dear Madam Clerk:

I am in receipt of a notification from you indicating that the
appeal concerning the above-captioned matter is to be heard on Monday,
August 20, 1990 at 9:30 a.m.

Please note the file that a Motion to Dismiss the Appeal has been
filed and said Motion has not been heard.

In addition thereto, this is to advise you that I will be on
vacation the week of August 20, 1990, and respectfully request a
postponement of this matter.

Thank you for your cooperation and would you be so kind as to set
in the Motions filed in this matter for hearing or advise us as to
whether or not the said Motion is consolidated with the hearing for the
appeal.

Very truly yours,

S. ERIC DINENNA

SED:cjc
cc: J. Carroll Holzer, Esquire
County Board of Appeals
Arnold Jablon, Esquire
Mr. Louis Hoffman

MICROFILMED

RECEIVED
COUNTY BOARD OF APPEALS
JUN 14 PM 2:10

DiNENNA, MANN & BRESCHI

ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.

SUITE 400
MERCANTILE TOWSON BUILDING
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(301) 296-6820
TELEFAX (301) 296-6884

June 28, 1989

Clerk
Baltimore County Board of Appeals
111 West Chesapeake Avenue
County Office Building
Towson, Maryland 21204

RE: Zoning matter

Dear Clerk:

Enclosed please find for filing a Motion to Dismiss Appeal and
Request for Hearing.

Very truly yours,

Geraldine A. Klauber
GERALDINE A. KLAUBER

GAK:gaw
Enclosures

RECEIVED
COUNTY BOARD OF APPEALS
JUN 29 PM 2:00

DiNENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
GERALDINE A. KLAUBER
FRANCIS X. BORGHERDING, JR.

SUITE 600
MERCANTILE-TOWSON BUILDING
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(301) 296-6820
TELEFAX (301) 296-6884

July 17, 1990

The Honorable William T. Hackett, Chairman
County Board of Appeals
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Case No.: 89-414-XA
Louis C. Hoffman, III, et ux.
Petitioner

Dear Mr. Hackett:

I am in receipt of your letter of July 11, 1990, summarizing the argument given you and members of the Board concerning my Motion to Dismiss the Appeal of the Sorrells.

The only correction I must make, which is not relevant to this issue, is in your second paragraph and the first two sentences thereof. The correction is that the decision of the Zoning Commissioner was pending before your Honorable Board when the maps were adopted in 1984.

I find the rest of your summary of the testimony and argument given you substantially correct.

I appreciate your cooperation in this matter.

Very truly yours,

S. Eric DiNenna
S. ERIC DiNENNA

SED:cjc
cc: J. Carroll Holzer, Esquire
Peter Max Zimmerman, Esquire

MICROFILMED

20 JUL 19 1990
RECEIVED
COUNTY BOARD OF APPEALS

DiNENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
GERALDINE A. KLAUBER
FRANCIS X. BORGHERDING, JR.

P.O. BOX 10508
TOWSON, MARYLAND 21285-0508
S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
GERALDINE A. KLAUBER
FRANCIS X. BORGHERDING, JR.

July 27, 1989

Clerk
County Board of Appeals
111 W. Chesapeake Avenue
County Office Building
Towson, Maryland 21204

RE: Case No.: 89-414-XA

Dear Madam Clerk:

On June 28, 1989, a Motion to Dismiss the Appeal was filed with you. Also filed was a Request for Hearing on the Motion.

As of this date I have not heard from your Board relative to a hearing date.

This is to advise you that it is my opinion that the rights of the property owner are being adversely effected and respectfully request an immediate hearing on the Motion.

I thank you for your cooperation.

Very truly yours,

S. Eric DiNenna
S. ERIC DiNENNA

SED:cjc
cc: Mr. Louis Hoffman

20 JUL 28 1990
RECEIVED
COUNTY BOARD OF APPEALS

DiNENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
GERALDINE A. KLAUBER
FRANCIS X. BORGHERDING, JR.

P.O. BOX 10508
TOWSON, MARYLAND 21285-0508
S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
GERALDINE A. KLAUBER
FRANCIS X. BORGHERDING, JR.

August 15, 1989

County Board of Appeals
111 West Chesapeake Avenue
County Office Building
Towson, Maryland 21204

RE: Zoning Matter
Case No.: 89-414-XA
Louis Hoffman, et ux., Petitioner

Dear Madam Clerk:

Again I respectfully request that the above-captioned matter be set in on a hearing per our request to have the appeal dismissed as per the Petition filed.

I appreciate the Board's schedule and the backlog it may have but, it is my opinion that the Appeal is void because of the failure to comply with the Rules for Appeal.

Thank you for your cooperation.

Very truly yours,

S. Eric DiNenna
S. ERIC DiNENNA

SED:cjc
cc: Mr. Louis Hoffman

20 AUG 16 1989
RECEIVED
COUNTY BOARD OF APPEALS

DiNENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
GERALDINE A. KLAUBER
FRANCIS X. BORGHERDING, JR.

P.O. BOX 10508
TOWSON, MARYLAND 21285-0508
S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
GERALDINE A. KLAUBER
FRANCIS X. BORGHERDING, JR.

October 6, 1989

County Board of Appeals
County Office Building
Room 315
111 W. Chesapeake Avenue
Towson, Maryland 21204

ATTN: Mr. Chairman RE: Case No.: 89-414-XA
Louis C. Hoffman, III, et ux.

Dear Mr. Chairman:

I am in receipt of your Board's ruling on the Motion to Dismiss the Appeal dated September 28, 1989.

I would respectfully request that this matter be set in for hearing as soon as possible in order my client's rights be effectuated.

Thank you for your cooperation.

Very truly yours,

S. Eric DiNenna
S. ERIC DiNENNA

SED:cjc
cc: Mr. Louis Hoffman
People's Counsel

20 OCT 10 1989
RECEIVED
COUNTY BOARD OF APPEALS

DiNENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
GERALDINE A. KLAUBER
FRANCIS X. BORGHERDING, JR.

P.O. BOX 10508
TOWSON, MARYLAND 21285-0508
S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
GERALDINE A. KLAUBER
FRANCIS X. BORGHERDING, JR.

November 28, 1989

County Board of Appeals of
Baltimore County
County Office Building, Room 315
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Case No.: 89-414-XA
Louis C. Hoffman, III, et ux.

Dear Mr. Chairman:

This letter is to formally request a postponement of the above-captioned matter which is now set for hearing before your Board on Friday, December 15, 1989, at 10:00 a.m..

I am starting a trial before the Circuit Court for Baltimore County on Thursday, December 14, 1989, which is anticipated and fairly definite to go for two (2) days. This now creates a conflict and I would respectfully request a postponement of this matter until Tuesday, December 26, 1989, at 1:30 p.m., in accordance with my conversation with your executive secretary.

I appreciate your cooperation.

Very truly yours,

S. Eric DiNenna
S. ERIC DiNENNA

SED:cjc
cc: People's Counsel
Mr. Louis Hoffman

20 NOV 28 1989
RECEIVED
COUNTY BOARD OF APPEALS

DiNENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DiNENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
GERALDINE A. KLAUBER
FRANCIS X. BORGHERDING, JR.

SUITE 600
MERCANTILE-TOWSON BUILDING
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(301) 296-6820
TELEFAX (301) 296-6884

November 29, 1990

County Board of Appeals
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Your Case No. 89-414-XA
Petition of Hoffman
Long Green Pike and Glen Arm Rd.

Dear Mr. Chairman:

Please refer to the Remand Order of Judge Leonard Jacobson of the Circuit Court for Baltimore County dated October 15, 1990.

Would you be so kind as to forward me your Order in accordance with the Remand Order of Judge Jacobson.

Thank you for your cooperation.

Very truly yours,

S. Eric DiNenna
S. ERIC DiNENNA

SED:cjc
cc: Mr. Louis Hoffman
J. Carroll Holzer, Esquire
Enclosure

MICROFILMED 20 NOV 29 1990

RONALD E. MAHER
14 ARBON 143-214
CARLSON 143-214

LAW OFFICES
HOLZER, MAHER & DEMILIO

205 W. CHESAPEAKE AVENUE
SUITE 105
TOWSON, MARYLAND 21204
(301) 296-6900
FAX (301) 821-4944

WASHINGTON, D.C. OFFICE
SUITE 700
1723 IN SALES STREET, N.W.
WASHINGTON, D.C. 20006

July 23, 1990
#6497

Clerk's Office
Circuit Court of Maryland
for Baltimore County
Courthouse
Towson, Maryland 21204

RE: Louis C. Hoffman III Appeal
Board of Appeals Case No.: 89-414-XA
Circuit Court Case No.: 90-CG-917

Dear Mr. Clerk:

Enclosed for the record please find a supplemental letter dated July 11, 1990 from William T. Hackett, Chairman of the County Board of Appeals and a copy of a letter dated July 17, 1990 from S. Eric DiNenna.

The Board has been unable to locate the transcript of this Motions Hearing and the letter from Chairman Hackett is a substitute record of the Hearing.

Thank you very much for your consideration.

Very truly yours,

J. Carroll Holzer
J. CARROLL HOLZER

enclosure

cc: S. Eric DiNenna
William T. Hackett

JCH:kis

20 JUL 28 1990
RECEIVED
COUNTY BOARD OF APPEALS

Paul Lee P.E.

Paul Lee Engineering, Inc.
304 W. Pennsylvania Ave.
Towson, Maryland 21204
301-821-5344

April 25, 1989

Mrs. Ann Nastarowicz
Deputy Zoning Commissioner
Baltimore County
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Hoffman Property
Long Green Pike and Glen Arm Road
Case #89-414-XA

Dear Mrs. Nastarowicz:

This is to inform you that I met with Mr. Michael Flanigan of Traffic Engineering relative to his feeling with regards to an additional entrance to Glen Arm Road for the above mentioned site.

It was brought to my attention by Mr. Flanigan that he was not concerned that there was not an additional entrance to Glen Arm Road due to the alignment and paving width of Glen Arm Road. Mr. Flanigan indicated that if the Petitioner desired an entrance to Glen Arm Road he would be required to improve the existing width of Glen Arm Road and to provide a left turn lane from Glen Arm Road to the property. It was Mr. Flanigan's feeling that due to the sharp curve radius on Glen Arm Road east of the property and the steepness of grade at that point that any entrance to this site from Glen Arm Road would necessitate the above mentioned improvements to Glen Arm Road. It was his opinion that these improvements must be made in order for an entrance to be approved by their office. He also emphasized the cost involved in providing this improvement.

It is my opinion that our client should not petition for the entrance since the cost of the improvements to Glen Arm Road could be very expensive.

Mr. Flanigan will make himself available to your office if there are any additional questions relative to our meeting.

If there is any additional information you need, please do not hesitate to contact this office.

Yours sincerely,

Paul Lee
Paul Lee

PL:tl
cc: Mr. Michael Flanigan
Sergeants - S. Eric DiNenna
Mr. Louis Hoffman

RECEIVED
APR 26 1989
ZONING OFFICE

MICROFILMED

Nana M. Nastarowicz
Deputy Zoning Comm.
For Baltimore County

June 1, 1989

RE: PETITIONS FOR SPECIAL EXCEPTION AND ZONING VARIANCE
SE of the intersection of Long Green Pike & Glen Arm Road
11th Election District-- 6th Councilmanic District
Louis C. Hoffman, III, et ux - Petitioners
Case No. 89-414-XA

Dear M's Nastarowicz:

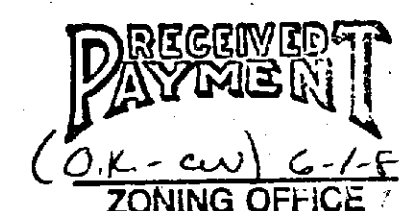
The decision rendered in favor of the above
Petitioner (Mr. Louis C. Hoffman) we feel is undesirable
and therefore wish to file an appeal.

Very truly yours,

Sylvia B. Sorrells
Dr. I. G. Sorrells
Mrs. Sylvia B. Sorrells

Check Included:
\$15.00 per sign...\$30.00
Special Exception 100.00
Variances 75.00
Received by 205.00
Date

MICROFILMED



11919 Long Green Pike
Glen Arm, Maryland 21057
July 14, 1989

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Letter filing an appeal to the decision rendered by the
Baltimore County Zoning Board, granting Special Exception
and Zoning Variance SE of the intersection of Long Green
Pike and Glen Arm Road, 11th Election District, 6th
Councilmanic District, Louis C. Hoffman, III, ET UX -
Petitioner Case No. 89-414-XA

Dear Board:

Enclosed please find a copy of the letter of appeal to
Case No. 89-414-XA.
I personally took this letter to the Deputy Zoning Com-
missioner, Ann M. Nastarowicz and asked her to read the letter
and advise me on the completeness of information. Ms. Nastar-
owicz questioned the cost figures but on checking found the cost
figures, which had been given to me by her secretary, to be
correct. Ms. Nastarowicz assured me that the letter was more
than thorough and adequate. I paid the bill by check which has
my name and address printed on it, copy enclosed.
After receiving a copy of the letter asking for dismissal
of the appeal by S. Eric Dinenna, I went back to talk with
Ms. Nastarowicz. She indicated that they had accepted this as
written and passed this information to the Appeal Board.
Office. I was asked to write a letter to the Appeal Board.
It was indicated on the request that a letter would follow.
Dr. Sorrells and I ask the Board of Appeals to consider
the Appeal in good standing.

Very truly yours,

Sylvia B. Sorrells
Dr. I. G. Sorrells
Mrs. Sylvia B. Sorrells

04-8 WJ 41 707 68
STVJBY 30 00000 110000
0240334

7/05/89

From: Larry

RE: Attached Motion to Dismiss

Bill:

I would grant Eric Dinenna's Motion to Dismiss the Appeal. The
appeal, dated June 1, 1989, and attached to Dinenna's Motion, clearly
lacks the address of the appellant. Our Rule of Procedure 3(a) states
"No appeal shall be entertained by the Board of Appeals unless the
notice of appeal shall state the names and addresses of the persons
taking such appeal." (emphasis added) The use of the term "shall" is
mandatory language as opposed to discretionary by use of the word
"may."

Our Rules are created under the authority of Section 603 of the
County Code wherein it is stated "said rules and regulations when
approved by the County Council shall have the force and effect of
law." Therefore, they are not guidelines but substantive law.

Under the circumstances, I don't see how we have any alternative
other than to dismiss the appeal.

7/06

Mrs. Sorrells stopped in today
to submitting an answer to
this motion within the week -
asks what are await her
answer. L.

7/14 - Mrs. Sorrells' letter is attached. L.

MICROFILMED

PLEASE PRINT CLEARLY

Interested
PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
<i>Dr. I. G. Sorrells</i>	<i>70 Box 127 Glen Arm Md 21057</i>
<i>Sylvia B. Sorrells</i>	<i>Box 127 Glen Arm Md 21057</i>

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
<i>Dr. I. G. Sorrells</i>	<i>12234 Long Green Pike #21057</i>
<i>Dr. I. G. Sorrells</i>	<i>12234 Long Green Pike #21057</i>
<i>Jeanette Hoffman</i>	<i>12074 Glen Arm Rd 21057</i>
<i>Eileen Hoffman</i>	<i>12070 Glen Arm Rd 21057</i>
<i>Nancy C. Hoffman</i>	<i>12074 Glen Arm Rd 21057</i>
<i>Ray Hoffman</i>	<i>12074 Glen Arm Rd 21057</i>
<i>Clifton Shennock</i>	<i>12072 Glen Arm Rd 21057</i>
<i>Paul J.</i>	<i>704 W. Glen Arm Ave #1004</i>
<i>Fatherman, H. L.</i>	<i>12601 Long Green Pike</i>

SUMMERFIELD FARMS ASSOCIATION, INC.
GLEN ARM, MARYLAND 21057

April 24, 1989

PETITIONER'S
EXHIBIT 24

To: Mr. Robert Haines
Zoning Commissioner
Baltimore County

Re: Special Exception to permit the use of the land at the intersection of
Long Green Pike and Glen Arm road for a farmers market

The Summerfield Farms Community Association supports the above request
by Mr. Hoffman. Many years ago the Glen Arm Area had access to two
'general stores', Shanklins and Roberts. Both men retired about the same
time leaving the area with only non-food businesses (except for the Whistle
Stop restaurant)

Mr. Hoffman and his family are long time residents of Glen Arm. We
will certainly find this family business a comfortable and convenient
neighbor. We raise no objection to his stated architectural plans.

Stanley M. Pollack
President, Summerfield Farms Association

Glen Arm road, including sections of Manor and smaller intersecting roads

Northeastern
Baltimore County Business
Association

Box 32
Fork, Maryland 21051

April 21, 1989

Mr. Robert Haines
Zoning Commission
Baltimore County
Towson, MD

Dear Mr. Haines,

Our association would like to express its support for the
zoning request made by Lou Hoffman and Maple Hill Farm.

We stand behind Mr. Hoffman in his pursuit for expansion of
his small business operation. This request would make it
possible for a large tract of land to remain in active
agriculture by Mr. Hoffman having a store on the corner
of Long Green Pike and Glen Arm Road so conveniently
located to his farm.

We hope you will look favorably upon this request.

Sincerely,

Jonathan Deford
Jonathan Deford
President

PETITIONER'S
EXHIBIT 23

501 ALLEN BROWN BUILDING
102 WEST PENNSYLVANIA AVENUE
BALTIMORE, MARYLAND 21204
TELEPHONE (301) 288-8100

April 24, 1989

Mr. Louis C. Hoffman
Glen Arm, Maryland 21057

Dear Mr. Hoffman:

You have requested that I confirm in writing that
the Long Green Valley Association does not oppose your
request for a special exception to operate a farmer's
market on the land you own, which is presently zoned,
RC-2, at the corner of Long Green Pike and Glen Arm
Road.

Although the Board of Directors of the Long Green
Valley Association originally opposed your request to
change the property from RC-5 to RC-2, the members of
the Association, in open meeting, voted to reverse the
position of the Board of Directors. I have previously
advised the Office of Planning and Zoning, as well as
the Planning Board, of these actions.

Although the Association has not acted formally
on your request for a special exception, most of the
Board members I have talked to are of the opinion that
the action of the Association, in supporting your
request for a zoning change, implied the Association's
approval of your request for a special exception as
well.

Very truly yours,

Edward L. Blanton, Jr.
Edward L. Blanton, Jr.

ELBjr:KF

PETITIONER'S
EXHIBIT 20

To The Zoning Commission, Baltimore County:

PETITIONER'S
EXHIBIT 3

We the undersigned, granting of the Special
Exception for a co-op farmers roadside stand at the intersection
of Glen Arm Road and Long Green Pike in the Glen Arm area. We
favor the request of Mr. and Mrs. Hoffman for this zoning for
the stabilization of this intersection and for providing to the
community this type use. We hope you grant the Hoffman's
request.

NAME	ADDRESS
<i>David H. Butler</i>	<i>11031 Factory Rd</i>
<i>John H. Kempf</i>	<i>Med Arm, MD 21057</i>
<i>John Simon</i>	<i>12040 Long Green Pike 21057</i>
<i>John G.</i>	<i>704 W. Glen Arm Rd 21057</i>
<i>Gary Heisterman</i>	<i>11600 Manor Rd 21057</i>
<i>Clifton Shennock</i>	<i>11442 Glen Arm Rd 21057</i>
<i>Edie Foster</i>	<i>12072 Glen Arm Rd 21057</i>
<i>Dorothy Clayton</i>	<i>1241 North St</i>
<i>Eileen Hoffman</i>	<i>6849 Sunrise Ave 21057</i>
<i>B. Z...</i>	<i>12070 Glen Arm Rd 21057</i>
	<i>Hickory and Belair</i>

PETITIONER'S EXHIBIT 3

IN RE: PETITIONER'S SPECIAL EXCEPTION AND VARIANCE
SE corner of Long Green Pike and Glen Arm Road - 11th Election District
Louis C. Hoffman, et ux,
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 84-340-XA

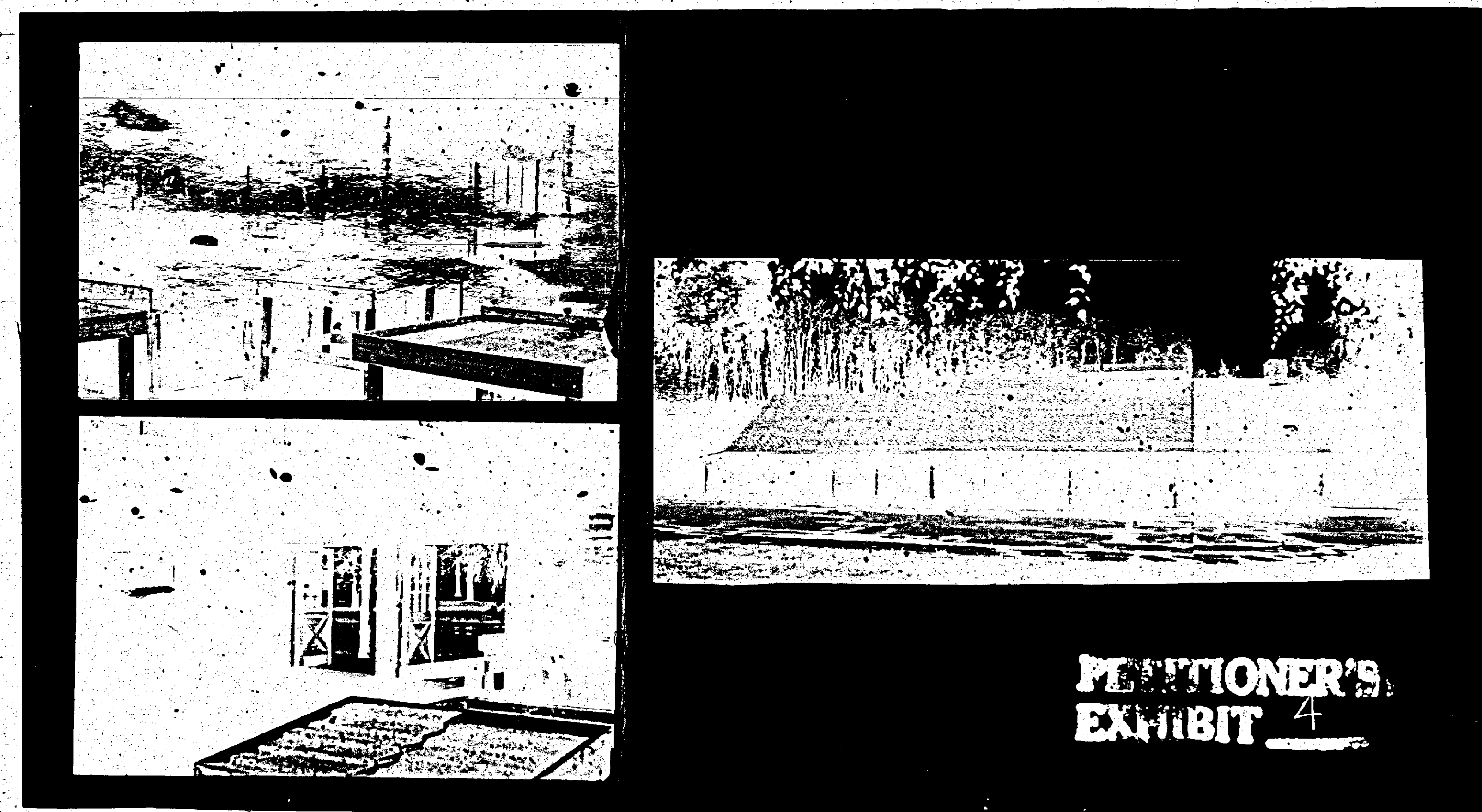
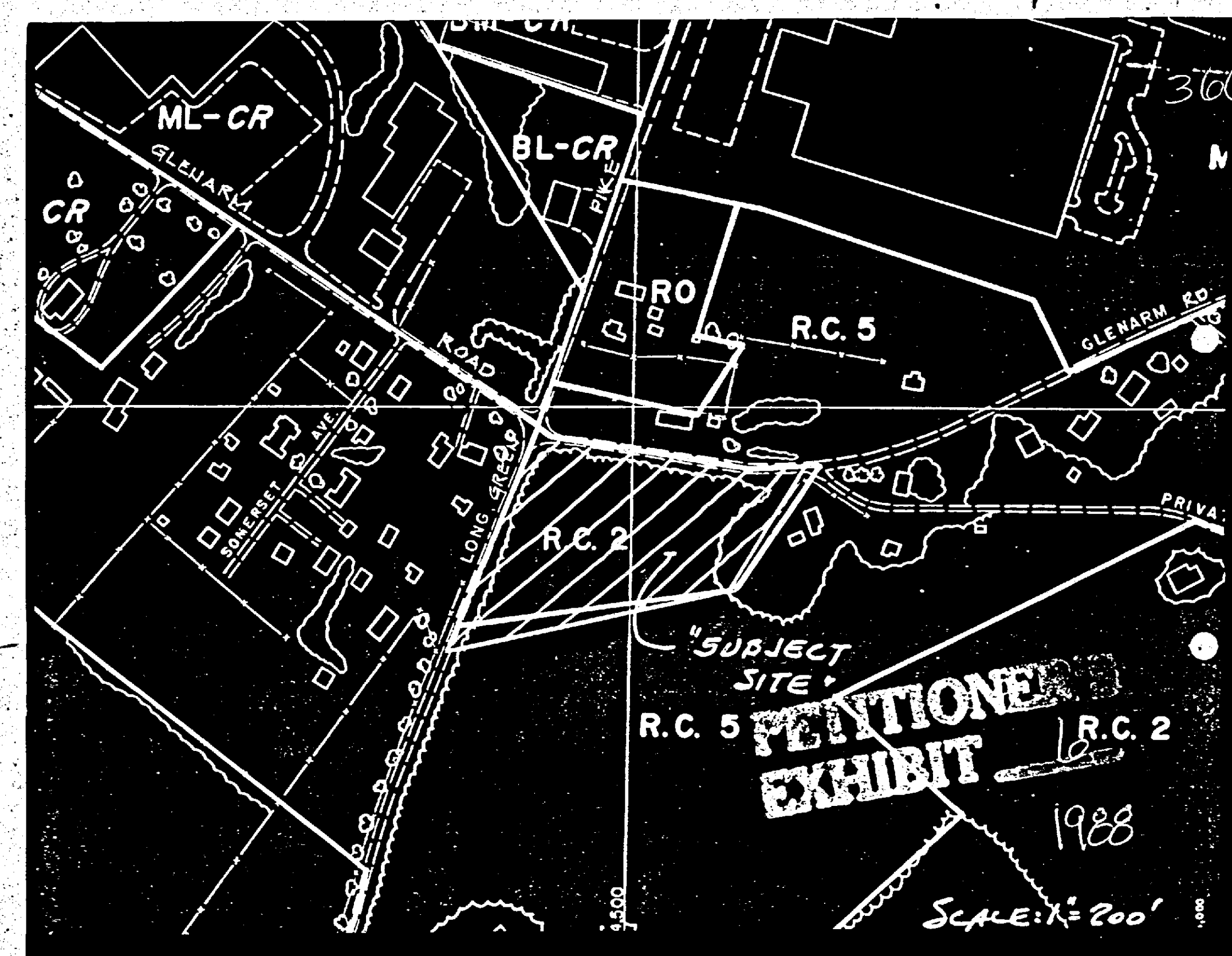
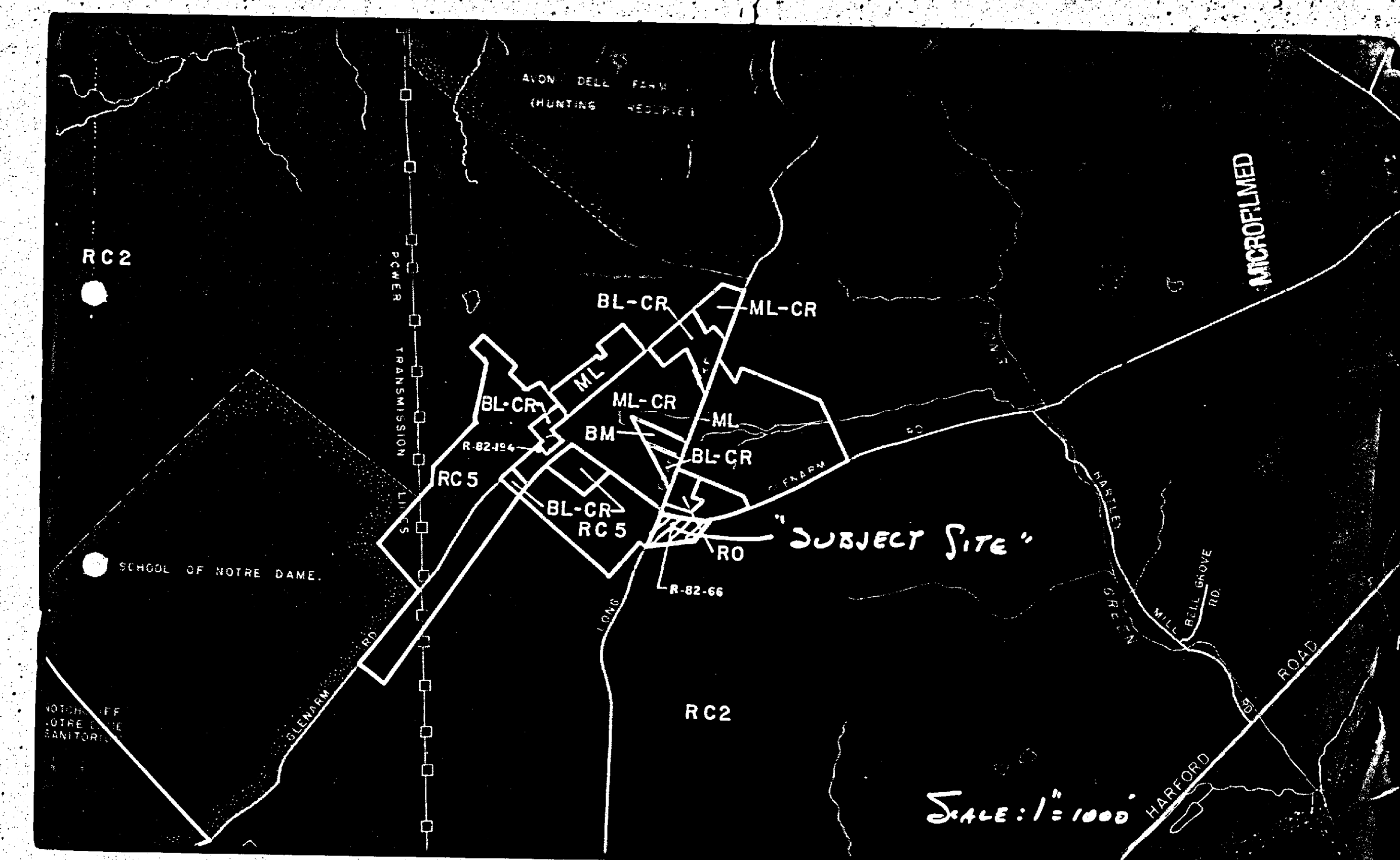
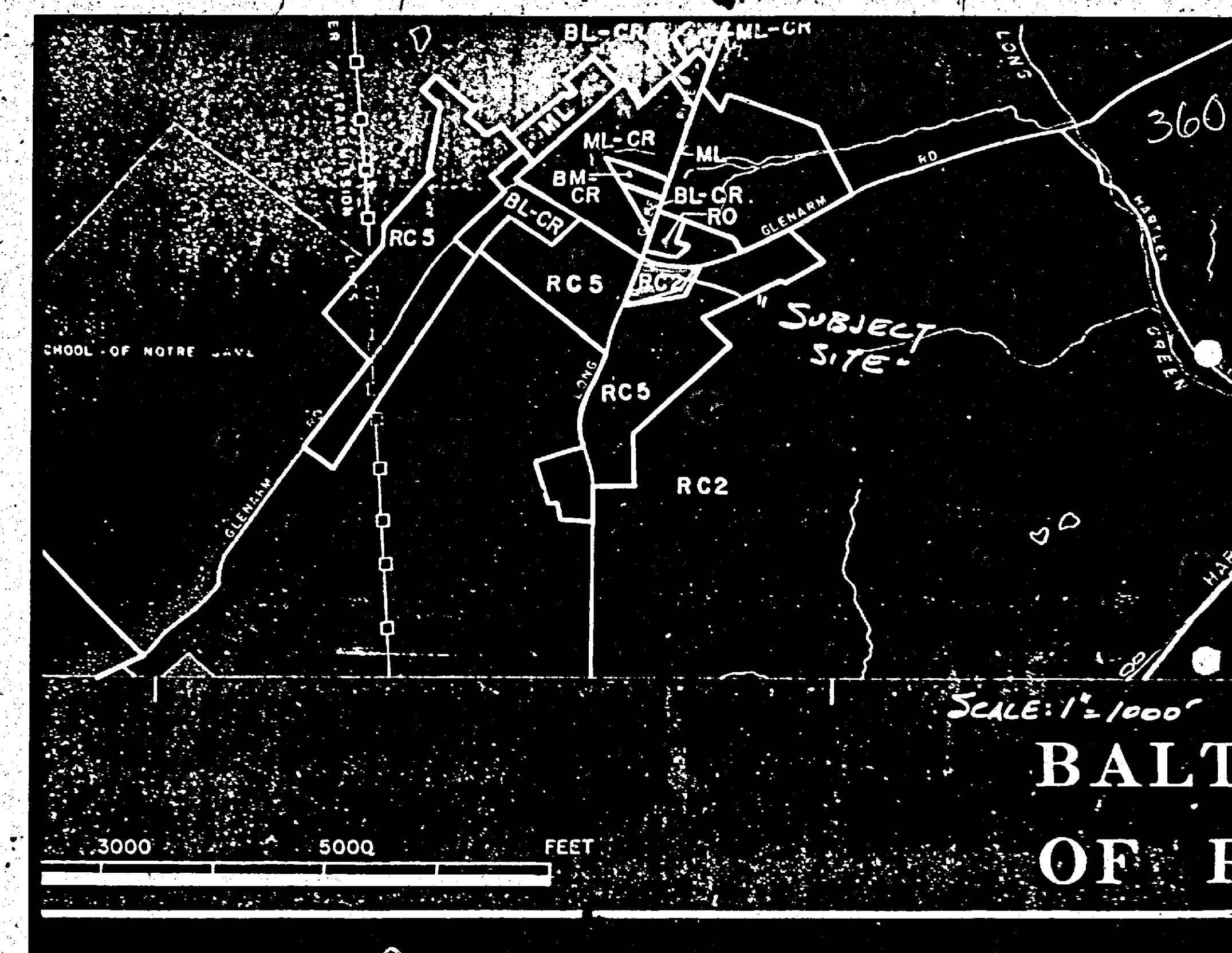
FINDINGS OF FACT AND CONCLUSIONS OF LAW

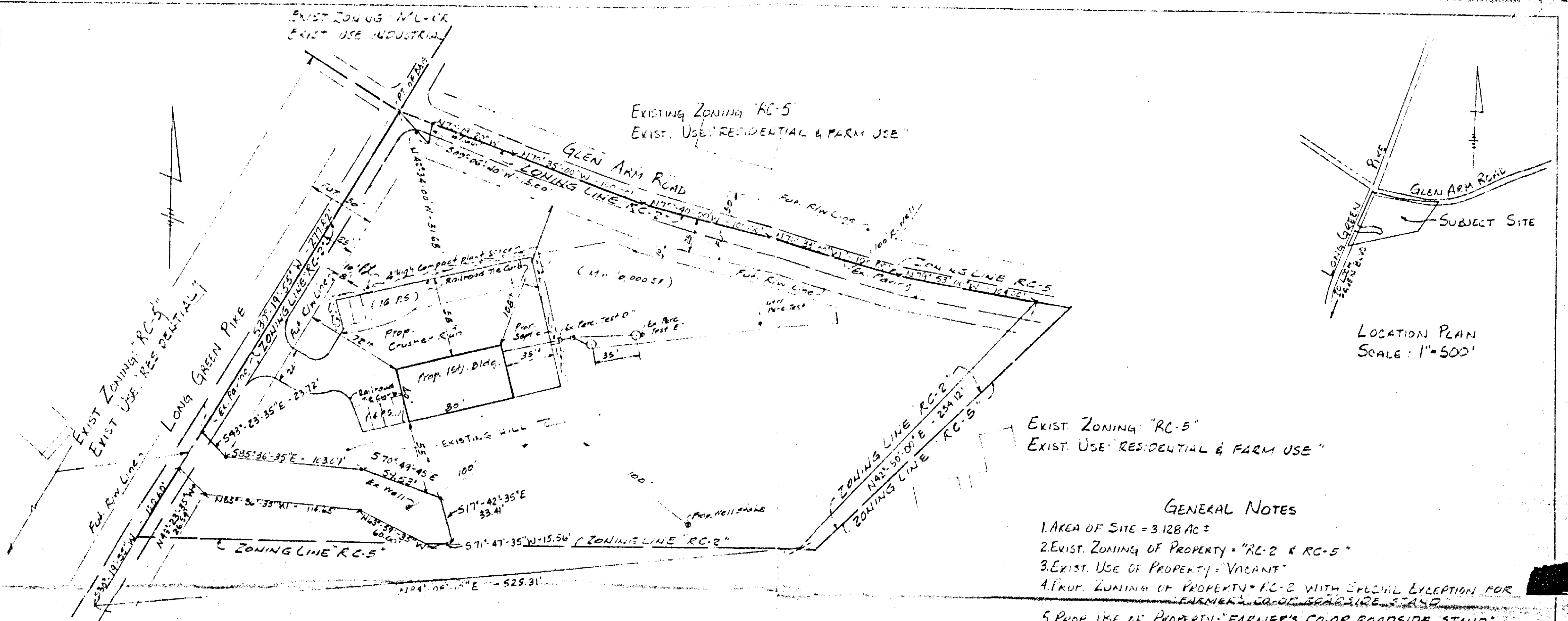
The Petitioners herein request a special exception for a farmers' co-op roadside stand and, additionally, a variance to allow a crusher run surface instead of a paved surface, as more fully described on Petitioners' Exhibit 1.

The Petitioners, represented by Counsel, as well as Paul Lee, a registered professional engineer; Fred Klau, a real estate appraiser; and John Kempke and Marie Cade, neighbors who are not opposed to the requests appeared and testified. Scott Reinhart, Dr. and Mrs. I. G. Sorrells, and Grace Gunnarason appeared and testified as Protestants.

Testimony indicated that the subject property is zoned R.C.2, comprises approximately three acres, and is undeveloped. The Petitioners bought the property in 1981 and propose to operate their business there. They presently own and operate orchards from which they sell fruit and vegetables. Fifteen to twenty percent of the business is retail and the remainder is wholesale. They wish to expand by operating a roadside stand from the subject site, which requires a special exception in an R.C.2 Zone. The area surrounding the subject property is a mixture of R.C.5, commercial, manufacturing, and office zones.

The 80' x 40' roadside stand would face north toward the intersection of Long Green Pike and Glen Arm Road with an entrance on Long Green Pike. The proposed building would be constructed of logs and would be a visual asset to the area. See Petitioners' Exhibits 2A through 2D. The Petitioners propose to sell





EXIST. ZONING: RC-5
EXIST. USE: RESIDENTIAL & FARM USE

EXIST. ZONING: "RC-5"
EXIST. USE: RESIDENTIAL & FARM USE

GENERAL NOTES

1. AREA OF SITE = 3.128 AC ±
2. EXIST. ZONING OF PROPERTY = "RC-2 & RC-5"
3. EXIST. USE OF PROPERTY = VACANT
4. PROP. ZONING OF PROPERTY = RC-2 WITH SPECIAL EXCEPTION FOR FARMER'S CO-OP ROADSIDE STAND
5. PROP. USE OF PROPERTY = FARMER'S CO-OP ROADSIDE STAND
6. OFF STREET PARKING: REQ'D 320USF @ 1PS/200SF = 16
7. TOTAL PARKING PROPOSED: 20
8. PETITIONER REQUESTING SPECIAL EXCEPTION TO RC-2 ZONE TO PERMIT FARMER'S CO-OP ROADSIDE STAND
9. PROPERTY TO HAVE PRIVATE WATER & SEPTIC SYSTEM. WATER WELL HAS BEEN DRILLED! PERCOLATION TEST APPROVED.
10. PROPERTY DRAINS TO LONG GREEN CREEK.
11. PETITIONER REQUESTING A VARIANCE TO SECTIONS 409.B.1.2 TO ALLOW THE DRIVEWAY AND PARKING AREAS NOT TO BE PAVED OR MACADAMED BUT TO HAVE A CRUSHER RUN SURFACE.
12. SPECIAL EXCEPTION & VARIANCE GRANTED CASE #84-340-XA JUNE 22, 1984. PROPERTY REZONED RC-5 BY MAP IN 1984.

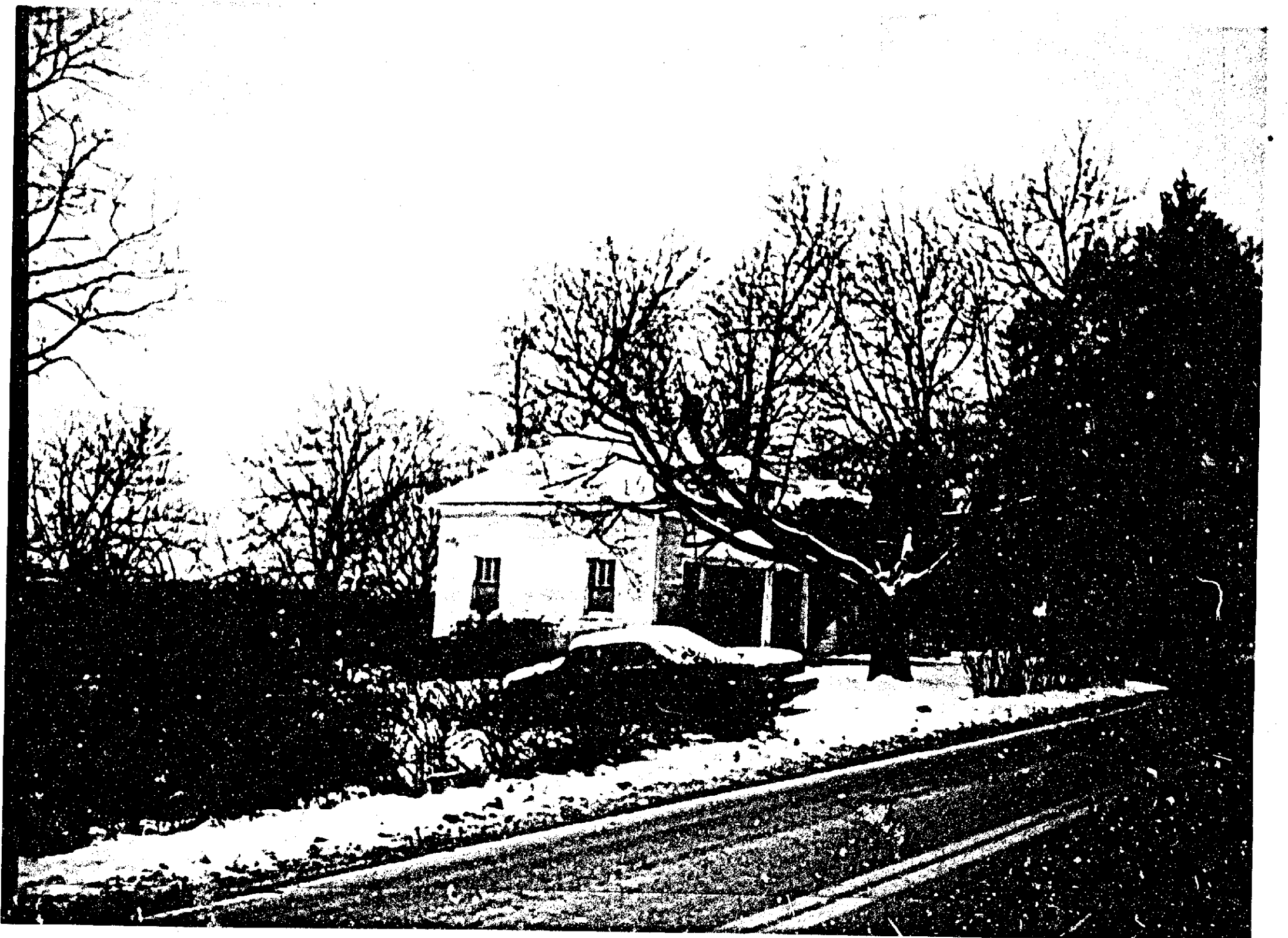
PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION & VARIANCE

DE. COR. LONG GREEN PIKE & GLEN ARM ROAD
11TH ELECT DIST BALTIMORE CO, MD
SCALE: 1"=50'
MAR. 28, 1984
REV. MAY 31, 1984
FEB 1, 1989 *PR*

**PETITION
EXHIBIT 1**

*Not to be signed by the
Petitioner or the
Petitioner's Attorney
Tina M. Hargrave 2/1/89*

84-000



MICROFILMED

Photostats #5

89-414-XA
10/16/90 - REMANDED to Board to include in restriction without hearing, definition of Farmer's Co-op Roadside Stand.
IN THE (Judge Jacobson)
IN THE MATTER OF THE APPLICATION OF LOUIS C. HOFFMAN, III, ET UX, FOR A SPECIAL EXCEPTION IN ZONING VARIANCE ON PROPERTY LOCATED SOUTH-EAST OF INTERSECTION OF LONG GREEN PIKE AND GLEN ARM ROAD 11TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT
ZONING CASE NO: 89-414-XA
CIRCUIT COURT
FCOR
BALTIMORE COUNTY
Case No. 90-CG-917
File No.: 78/117

OPINION AND ORDER

This matter comes before this Court upon an Appeal taken by Protestants from an Order of the County Board of Appeals dated February 9, 1990. Prior to hearing the merits of the Appeal, the Court heard Appellees' Motion to Dismiss the Appeal for failure to comply with P. 3 of the County Board of Appeals of Baltimore County Rules and Regulations.

Upon review and consideration of memoranda filed pursuant to Rule B-12 and oral argument of Counsel, this Court finds that the Motion to Dismiss should be denied. It is also the finding of this Court that the Board was not arbitrary and capricious in the granting of the Special Exception and Variance; however, Restriction No. 4 contained in the Opinion and Order of the County Board of Appeals of Baltimore County must be clarified by the Board to include therein the definition of Farmers Co-op Roadside Stand as defined in Section 101 of the Baltimore County Zoning Regulations.

IT IS HEREBY ORDERED by the Circuit Court for Baltimore County that the Appellees' Motion to Dismiss is denied; and it is

- 1 -

further
ORDERED that the matter be remanded to the County Board of Appeals of Baltimore County to include in Restriction No. 4 without a hearing, the definition of a Farmer's Co-op Roadside Stand.

S. ERIC DINENNA
Counsel for Appellees
CARROLL HOLZER
Counsel for Appellants

JUDGE 10/15/90

- 2 -

cc Dinenna
Holzer

IN THE MATTER OF THE APPLICATION OF LOUIS C. HOFFMAN, III, ET UX FOR A SPECIAL EXCEPTION AND ZONING VARIANCE ON PROPERTY LOCATED SOUTHEAST OF THE INTERSECTION OF LONG GREEN PIKE AND GLEN ARM ROAD 11TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT
EDMUND NELAN, CARROLL T. SPURRY, JOHN C. MORGAN AND DR. AND MRS. I.G. SORRELLS, PLAINTIFFS
ZONING CASE NO. 89-414-XA
IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
CG Doc. No. 78
Folio No. 117
File No. 90-CG-917

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, Michael B. Sauer, and Arnold G. Foreman, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Office of the Zoning Commissioner and the Board of Appeals of Baltimore County:

No. 89-414-XA

March 8, 1989 Petition filed by Mr. and Mrs. Hoffman for Special Exception for farmer's roadside co-op stand. Petition for Variance filed to provide driveways and parking area not to be paved or macadamized, but to provide crusher run surface and allow parking spaces without required striping.
March 23 Publication in newspaper.
April 4 Certificate of Posting of property.
April 5 Comments of Baltimore County Zoning Plans Advisory Committee.
April 25 Hearing held on Petitions by the Deputy Zoning Commissioner.
May 3 Order of the Deputy Zoning Commissioner GRANTING Petitions with restrictions.
June 1 Notice of Appeal received from Dr. and Mrs. I.G. Sorrells, Protestants.
June 29 Motion to Dismiss Appeal received from S. Eric Dinenna, Esquire on behalf of Mr. and Mrs. Hoffman, the Petitioners.
July 14 Response to Motion to Dismiss filed by Dr. and Mrs. I.G. Sorrells.
September 19 Hearing held before the Board of Appeals on Motion to Dismiss.
September 28 Ruling on Motion to Dismiss - DENIED.

MICROFILMED

Louis C. Hoffman, III, et ux, File No. 90-CG-917
Case No. 89-414-XA

December 26, 1989 Hearing on appeal held before the Board of Appeals.
February 9, 1990 Opinion and Order of the Board GRANTING Petitions with restrictions.
March 9 Order for Appeal filed in the Circuit Court for Baltimore County by Edmund Nelan, Carroll T. Spurry, John C. Morgan, and Dr. and Mrs. I.G. Sorrells, Plaintiffs.
Petition to accompany appeal filed in the Circuit Court for Baltimore County by Mr. Nelan, et al.
March 12 Certificate of Notice sent to interested parties.
April 6, 1990 Transcript of testimony filed.
Protestants' Exhibit No. 1 -List of Protestants.
" " " 2 -Map (Freehand Drawing)
" " " 3 -Petitions
" " " 4 -Photo
(IN BOARD'S CLOSET) " " " 5 -Large Photo Board (w/4 photos).
April 6 Record of Proceedings filed in the Circuit Court for Baltimore County.
Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board. However, all tangible material or evidence of an unwieldy or bulky nature will be retained in the Board of Appeals office and upon request of the parties or the Court will be transmitted to the Court by whoever institutes the request.

Respectfully submitted,

Linda Lee M. Kuszmaul
Linda Lee M. Kuszmaul, Legal Secretary
County Board of Appeals of Baltimore County

cc: Mr. Edmund Nelan
M. Carroll T. Spurry
Mr. John C. Morgan
Dr. and Mrs. I.G. Sorrells
S. Eric Dinenna, Esquire
Mr. and Mrs. Louis C. Hoffman, III
J. Carroll Holzer, Esquire

MICROFILMED

IN THE MATTER OF THE APPLICATION OF LOUIS C. HOFFMAN, III, ET UX FOR A SPECIAL EXCEPTION AND ZONING VARIANCE ON PROPERTY LOCATED SOUTHEAST OF THE INTERSECTION OF LONG GREEN PIKE AND GLEN ARM ROAD 11TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT
EDMUND NELAN, CARROLL T. SPURRY, JOHN C. MORGAN AND DR. AND MRS. I.G. SORRELLS, PLAINTIFFS
ZONING CASE NO. 89-414-XA
IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
FOR
BALTIMORE COUNTY
CG Doc. No. 78
Folio No. 117
File No. 90-CG-917

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Michael B. Sauer, and Arnold G. Foreman, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Edmund Nelan, 5319 Glenarm Rd., Glenarm, MD 21057, Carroll T. Spurry, 5321 Glenarm Rd., Glenarm, MD 21057, John C. Morgan, 5308 Glenarm Rd., Glenarm, MD 21057 and Dr. and Mrs. I.G. Sorrells, 11919 Long Green Pike, Glenarm, MD 21057, Plaintiffs; S. Eric Dinenna, Esquire, P.O. Box 10508, Towson, MD 21285-0508, Counsel for Petitioners; Mr. and Mrs. Louis C. Hoffman, III, P.O. Box 203, Glenarm, MD 21057, Petitioners; and Arnold G. Foreman, Esquire, c/o County Board of Appeals, Room 315, County Office Bldg., Towson, MD 21204, a copy of which notice is attached hereto and prayed that it may be made a part hereof.

Linda Lee M. Kuszmaul
Linda Lee M. Kuszmaul, Legal Secretary
County Board of Appeals of Baltimore County
Room 315, County Office Building
Towson, MD 21204 (301) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Edmund Nelan, 5319 Glenarm Rd., Glenarm, MD 21057, Carroll T.

MICROFILMED

Louis C. Hoffman, III, et ux, File No. 90-CG-917
Case No. 89-414-XA
Spurry, 5321 Glenarm Rd., Glenarm, MD 21057, John C. Morgan, 5308 Glenarm Rd., Glenarm, MD 21057, and Dr. and Mrs. I.G. Sorrells, 11919 Long Green Pike, Glenarm, MD 21057, Plaintiffs; S. Eric Dinenna, Esquire, P.O. Box 10508, Towson, MD 21285-0508, Counsel for Petitioners; Mr. and Mrs. Louis C. Hoffman, III, P.O. Box 203, Glenarm, MD 21057, Petitioners; and Arnold G. Foreman, Esquire, c/o County Board of Appeals, Room 315, County Office Building, Towson, MD 21204 on this 12th day of March, 1990.

Linda Lee M. Kuszmaul
Linda Lee M. Kuszmaul, Legal Secretary
County Board of Appeals of Baltimore County

MICROFILMED



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

March 12, 1990

Mr. Edmund Nelan
5319 Glenarm Road
Glenarm, Maryland 21057

Re: Case No. 89-414-XA (Louis C. Hoffman, III, et ux)

Dear Mr. Nelan:

In accordance with Rule B-7(a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the appeal which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. In addition, the cost incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you file in Court, in accordance with Rule B-7(a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Linda Lee M. Kuszmaul
Linda Lee M. Kuszmaul, Legal Secretary

Encl.

cc: M. Carroll T. Spurry
Mr. John C. Morgan
Dr. and Mrs. I.G. Sorrells

MICROFILMED



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

March 12, 1990

S. Eric Dinenna, Esquire
Dinenna, Mann & Breschi
P.O. Box 10508
Towson, MD 21285-0508

Re: Case No. 89-414-XA (Louis C. Hoffman, III, et ux)

Dear Mr. Dinenna:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda Lee M. Kuszmaul
Linda Lee M. Kuszmaul, Legal Secretary

Encl.

cc: Mr. and Mrs. Louis C. Hoffman, III
Mr. & Mrs. Rudolph Fischer
Doug & Jennifer Hoffman
Ms. Ellen Hoffman
Mr. Clifton Isenbeck
Ms. Katherine Tyler
Ms. Karen Reavis
Mr. Paul Lee
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Katarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

MICROFILMED

IN THE MATTER OF THE APPLICATION OF
LOUIS C. HOFFMAN, III, ET UX FOR A
SPECIAL EXCEPTION AND ZONING VARIANCE
ON THE PROPERTY LOCATED SOUTHEAST OF
THE INTERSECTION OF LONG GREEN PIKE
AND GLEN ARM ROAD
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT
ZONING CASE NO. 89-414-XA

* IN THE CIRCUIT COURT
* FOR BALTIMORE COUNTY
* CG DOCKET NO.
* FOLIO NO. 90CG917
* FILE NO. 78/117

PETITION FOR APPEAL

Nelan, et al, Appellants, by their attorney J. Carroll
Holzer, file this Petition for Appeal, pursuant to Maryland
Rule B2, from the February 9, 1990 Opinion and Order of the
Board of Appeals of Baltimore County and says:

1. On February 9, 1990, the Board of Appeals of Baltimore
County (hereinafter "Board") entered an Order granting a
Petition for Special Exception for a farmer's co-op roadside
stand on the subject property, and a Variance from Section
409.8.A.2 to permit driveways and parking areas not to be
paved, and from Section 409.8.A.6 to permit parking spaces
without the required striping, subject to certain conditions
precedent to the relief granted.

2. The following condition, identified as No. 4 by the
Board of Appeals in its Opinion, provided:

4. Petitioners are limited to selling from the
proposed farmers co-op roadside stand only seasonal
produce indigenous to the area, including but not
limited to, fresh fruit and vegetables of all types,
milk, eggs, cider, preserves, honey, meats and other
dairy and farm products. No other items goods not
limited to artificial or manufactured articles, shall
be sold from the premises.

A copy of the Opinion and Order of the Board of Appeals is
attached hereto as Exhibit A.

MICROFILMED

3. The Board of Appeals heard testimony and received
exhibits at a hearing on December 26, 1989, at which time
testimony was presented that the subject property is located in
the town proper of Glen Arm, located on the southeast corner of
the intersection of Long Green Pike and Glen Arm Road in
Baltimore County, Maryland. It is presently unimproved and
consists of approximately 3.128 acres, which is split zoned RC2
and RC5. The property is substantially RC2 except for a small
portion located on the southern boundary line. The Petitioner,
Hoffman (hereinafter "Hoffman") testified that he is a farmer
and operates a 130 acre farm of which 70 acres are attributed to
fruit trees. He testified that he proposes to erect a 40 x 80
foot log cabin type building from which to conduct his
business. He testified that it was his desire to sell fruit
and vegetables, cider and dairy products. He further testified
that it was his intention to sell items which were not
specifically grown on his farm. Hoffman petitioned for a
Special Exception under Section 502.1 of the Baltimore County
Zoning Regulations. Said regulations do not allow a farmer's
co-op roadside stand in a RC2 zone as a matter of right.

In granting the Special Exception with certain
restrictions (specifically No. 4 previously referred to), the
Board of Appeals has committed an error as a matter of law by
administratively enlarging the definition of farmer's co-op
roadside stand as set forth in Bill No. 98-1975 and included in
the present Baltimore County Zoning Regulations, Section 101 -

MICROFILMED

Definitions.

4. The Baltimore County Zoning Regulations, Section 101 -
Definitions defines farmer's co-op roadside stand as follows:

A principal building other than a dwelling which is
used by one or more individuals commonly engaged in
the sale of mutually grown seasonal produce from
their respective farms or satellite farms (emphasis
supplied) [Bill No. 98, 1975].

The Board erred in its decision by the inclusion of
Restriction No. 4 providing that the Petitioner was limited to
selling from the proposed farmer's co-op roadside stand only
seasonal produce indigenous to the area (emphasis supplied),
including but not limited to fresh fruit and vegetables of all
types, milk, eggs, cider, preserves, honey, meats and other
dairy and farm products.

The effect of the Board's err in defining the area from
which produce could be sold at the farmer's co-op roadside
stand to "indigenous to the area" administratively broadens the
definition of the Baltimore County Zoning Regulations and is an
err by the Board as a matter of law.

WHEREFORE, Nelan, et al, Appellants petition this
Honorable Court to reverse the Opinion and Order of the Board
of Appeals dated the 9th day of February, 1990 and order the
Board to render a decision in conformity with the Baltimore
County Zoning Regulations.

Respectfully submitted,

J. CARROLL HOLZER
Attorney for Appellants

MICROFILMED

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Petition
for Appeal was served on the Administrative Secretary, County
Board of Appeals, Room 315, County Office Building, 111 West
Chesapeake Avenue, Towson, Maryland 21204 and mailed to Eric
S. DiNenna, Esquire, P.O. Box 10508, Towson, Maryland 21204,
Attorney for Petitioners.

J. CARROLL HOLZER

MICROFILMED

FILE COPY

IN THE MATTER OF THE APPLICATION OF
LOUIS C. HOFFMAN, III, ET UX FOR A
SPECIAL EXCEPTION AND ZONING VARIANCE
ON THE PROPERTY LOCATED SOUTHEAST OF THE
INTERSECTION OF LONG GREEN PIKE AND
GLEN ARM ROAD
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT
ZONING CASE NO. 89-414-XA

OPINION

This is an appeal from the decision of the Deputy Zoning Commissioner dated
May 3, 1989 wherein Petitioners' request for special exception for a farmer's
co-op roadside stand and a variance to permit driveways and parking area not
to be paved with macadam and to permit parking spaces without the required
striping was granted, subject to certain restrictions.

On September 28, 1989, this Board denied the Petitioners' Motion to Dismiss
this appeal and the matter was set for hearing on the merits for December 26,
1989 at which time testimony was taken. The appeal to this Board is de novo
and this Opinion is based upon the evidence, testimony and exhibits offered at
the December 26, 1989 hearing.

The Petitioner was represented by Counsel, S. Eric DiNenna. Peter Max
Zimmerman, Deputy People's Counsel for Baltimore County, participated in the
proceedings. Testifying for the Petitioner were Louis C. Hoffman, owner of the
property, Paul Lee, a registered professional engineer and Ed Nieland. Testi-
fying in opposition to the Petitions were: Edmond Nelan, Gary Sorrells, John
Morgan, Carol Spurry and Mrs. Sylvia Sorrells, all of whom live within the near
vicinity of the subject property.

The subject property is located in the town proper of Glen Arm, located on
the southeast corner of the intersection of Long Green Pike and Glen Arm Road in
Baltimore County, Maryland. It is presently unimproved and consists of approxi-
mately 3.128 acres, which is split zoned, RC-2 and RC-5. The property is
substantially RC-2, except for a small portion located on the southern boundary

FILE COPY

MICROFILMED

IN THE MATTER OF THE APPLICATION OF
LOUIS C. HOFFMAN, III, ET UX FOR A
SPECIAL EXCEPTION AND ZONING VARIANCE
ON THE PROPERTY LOCATED SOUTHEAST OF THE
INTERSECTION OF LONG GREEN PIKE AND
GLEN ARM ROAD
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT
ZONING CASE NO. 89-414-XA

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
CG DOCKET NO.
FOLIO NO. 90CG917
FILE NO. 78/117

EDMOND NELAN, 5319 Glenarm Rd, Glenarm, MD 21057
CARROLL T. SPURRY, 5301 Glenarm Rd, Glenarm, MD 21057
JOHN C. MORGAN, 5308 Glenarm Rd, Glenarm, MD 21057
DR. and MRS. J. G. SORRELLS, 11119 LONG GREEN PIKE, Glen Arm, MD 21057

NOTICE OF APPEAL

Please note an appeal to the Circuit Court for Baltimore
County from the Opinion and Order of the County Board of
Appeals under the date of February 9, 1990, in the
above-captioned matter.

EDMOND NELAN, 5319 Glenarm Road, Glenarm, MD 21057
CARROLL T. SPURRY, 5301 Glenarm Rd, Glenarm, MD 21057
JOHN C. MORGAN, 5308 Glenarm Rd, Glenarm, MD 21057
DR. and MRS. J. G. SORRELLS, 11119 LONG GREEN PIKE, Glen Arm, MD 21057
I HEREBY CERTIFY that on this 9th day of March, 1990, a copy
of the foregoing Notice of Appeal was served on the Administrative
Secretary, County Board of Appeals, Room 315, County Office
Building, 111 W. Chesapeake Ave., Towson, MD 21204, and a copy
mailed to S. Eric DiNenna, Esquire, P.O. Box 10508, Towson, MD
21285-0508, Attorney for Petitioners.

EDMOND P. NELAN
CARROLL T. SPURRY
JOHN C. MORGAN
Sylvia B. Sorrells
Dr. J. G. Sorrells

RECEIVED AND FILED
90 MAR -9 PM 1:43
CLERK OF CIRCUIT COURT,
BALTIMORE COUNTY

MICROFILMED

IN THE MATTER OF THE APPLICATION OF
LOUIS C. HOFFMAN, III, ET UX FOR A
SPECIAL EXCEPTION AND ZONING VARIANCE
ON THE PROPERTY LOCATED SOUTHEAST OF THE
INTERSECTION OF LONG GREEN PIKE AND
GLEN ARM ROAD
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT
ZONING CASE NO. 89-414-XA

OPINION

This is an appeal from the decision of the Deputy Zoning Commissioner dated
May 3, 1989 wherein Petitioners' request for special exception for a farmer's
co-op roadside stand and a variance to permit driveways and parking area not
to be paved with macadam and to permit parking spaces without the required
striping was granted, subject to certain restrictions.

On September 28, 1989, this Board denied the Petitioners' Motion to Dismiss
this appeal and the matter was set for hearing on the merits for December 26,
1989 at which time testimony was taken. The appeal to this Board is de novo
and this Opinion is based upon the evidence, testimony and exhibits offered at
the December 26, 1989 hearing.

The Petitioner was represented by Counsel, S. Eric DiNenna. Peter Max
Zimmerman, Deputy People's Counsel for Baltimore County, participated in the
proceedings. Testifying for the Petitioner were Louis C. Hoffman, owner of the
property, Paul Lee, a registered professional engineer and Ed Nieland. Testi-
fying in opposition to the Petitions were: Edmond Nelan, Gary Sorrells, John
Morgan, Carol Spurry and Mrs. Sylvia Sorrells, all of whom live within the near
vicinity of the subject property.

The subject property is located in the town proper of Glen Arm, located on
the southeast corner of the intersection of Long Green Pike and Glen Arm Road in
Baltimore County, Maryland. It is presently unimproved and consists of approxi-
mately 3.128 acres, which is split zoned, RC-2 and RC-5. The property is
substantially RC-2, except for a small portion located on the southern boundary

Case No. 89-414-XA
Louis C. Hoffman, III, et ux
line. The Petitioner purchased the property in 1980 when it was zoned RC-5.
Thereafter, it was reclassified in 1983 to RC-2 and a special exception was
granted for the property by then Zoning Commissioner, Arnold Jablon. An appeal
was filed from the granting of the special exception, which was not heard since
the property was reclassified to RC-5 in 1984. In 1988, the property was again
reclassified to RC-2 under the Comprehensive Zoning Map Process. Thereafter,
the Petitioner filed these Petitions for special exception and zoning variance
which are now on appeal to this Board.

The Petitioner, Louis C. Hoffman, testified that he is a farmer by trade and
owns and operates a 130-acre farm, of which 70 acres are attributable to fruit
trees. He informed the Board that he is the largest fruit grower in Baltimore
County and presently operates a fruit stand in the area near the site of the
subject property. He described the street intersection and informed the Board
that the closest home to the intersection is 600 feet and that two houses are
located directly across the road from the site. He further testified that across
from the intersection is Gruman Aircraft Plant and a processing plant. He
indicated that there were commercial uses within 500 feet of the property site.
He proposes to erect a 40' x 80' log cabin-type building from which to conduct
his business. It is his desire to sell fruit and vegetables, cider and dairy
products. His intended hours of operation are to be open daily from 9:00 a.m.
to 9:00 p.m. He further testified he was familiar with the conditions for the
granting of a special exception as set out in Section 502.1 of the Baltimore
County Zoning Regulations and stated in his opinion that the proposed use would
meet all such conditions. Further he requested that he be relieved from the
requirement of paving the parking lot with macadam and be permitted to use
crusher run stone, which in his opinion would be more beneficial to the subject
property since it would serve to retain water and prevent run-off more likely to

Case No. 89-414-XA
Louis C. Hoffman, III, et ux

3.

occur from a macadam-type surface. Petitioner further indicated that in constructing the building, he would only be clearing that area which is needed and the only lighting would be for security purposes and there would be no parking lot lights.

Mr. Paul Lee, a registered professional engineer, testified on behalf of the Petitioner. He prepared a plan dated February 1, 1989, which provided for a proposed 40' x 80' log cabin-type building with 20 parking spaces. He testified that the property slopes up from the road and that a crusher run parking lot surface would be more beneficial since it would serve to control water run-off more effectively as opposed to an impervious macadam-type surface. He indicated the property would be serviced by a well and septic system and that the store would generate less use than the average of two homes. He further testified that the Department of Environmental Protection and Resource Management (DEPRM) agrees with the Petitioners' request for a crusher run parking lot and that all comments made by the County Reviewing Agencies have been complied with.

In his opinion, he was unaware of any adverse effects that this proposed plan would have upon the surrounding community and that all of the conditions as delineated in Section 502.1 of the Baltimore County Zoning Regulations (BCZR) have been met.

Five Protestants appeared and testified in opposition to the Petitioners' plan, all of whom were property owners in the immediate area. Collectively, their testimony indicated that the neighborhood was in a transitional stage consisting of mixed rural, office and agricultural uses. They felt that the Petitioners' proposed plan would have a negative impact on the value of their residential properties and generally feared any further commercial development within the area. Additionally, they felt that the proposed plan for a roadside stand was too large and that it would create a traffic problem.

Case No. 89-414-XA
Louis C. Hoffman, III, et ux

4.

The BCZR do not allow for a farmer's co-op roadside stand in an RC-2 zone as a matter of right. Such use is only permitted by special exception upon the Petitioner satisfying the conditions set out in Section 502.1 of the BCZR. This Board has reviewed all of the evidence, testimony and exhibits presented to it at the hearing and is of the opinion that the conditions as set out in Section 502.1 have been met. Further, the Board finds that the Petitioner has shown that the proposed use would be conducted without any real detriment to the neighborhood and would not adversely affect the public interest. The Board does not feel that the proposed use at this site would have any adverse impact above and beyond that which is inherently associated with such a special exception use irrespective of its location within the zone. Schultz v. Fritz, 432 A.2d 1319 (1980).

Accordingly, this Board will grant the special exception with certain restrictions as more fully set out below.

With regard to the zoning variance request, this Board finds that the variance should be granted. The Petitioner is relieved from the requirements of Section 409.8.A.2 which requires that the driveways and parking lots be paved or macadam and is further relieved from Section 409.8.A.6 which requires that parking spaces provide striping. The testimony clearly indicates and is uncontradicted that a crusher run surface in lieu of an impervious surface such as macadam would be more beneficial both to the Petitioner and to the surrounding property owners since it would serve to retain and absorb the water upon the property and would prevent run-off onto other properties or surrounding areas. It is this Board's opinion that the granting of the variances would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public health, safety and general welfare.

Case No. 89-414-XA
Louis C. Hoffman, III, et ux

5.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 9th day of February, 1990 by the County Board of Appeals of Baltimore County ORDERED that the Petition for Special Exception for a farmer's co-op roadside stand on the subject property and a variance from Section 409.8.A.2 to permit driveways and parking areas not to be paved or macadam and from Section 409.8.A.6 to permit parking spaces without the required striping be and are hereby GRANTED, subject, however, to the following restrictions, which are conditions precedent to the relief granted:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The farmer's co-op roadside stand shall be open for business only during daylight hours, Sunday through Saturday, but in no event shall it be open earlier than 9:00 a.m. or close later than 9:00 p.m.
3. The special exception granted herein shall terminate upon the sale and/or transfer of the subject property and/or the business to any party other than immediate family, heirs, legatees, or personal representatives.
4. Petitioners are limited to selling from the proposed farmer's co-op roadside stand only seasonal produce indigenous to the area, including, but not limited to, fresh fruit and vegetables of all types, milk, eggs, cider, preserves, honey, meats, and other dairy and farm products. No other items, goods, not limited to, artificial or manufactured articles, shall be sold from the premises.
5. The Petitioners shall maintain their property daily by keeping it free from trash and protected from fire.
6. A detailed landscaping plan shall be submitted for approval to the Baltimore County Landscape Planner. A copy of the approved landscape plan shall be submitted to the Zoning Commissioner's office for inclusion in the case file.

Case No. 89-414-XA
Louis C. Hoffman, III, et ux

6.

7. Compliance with all Zoning Plans Advisory Committee Comments, including, but not limited to, the comments submitted by DEPRM dated April 6, 1989, attached hereto and made a part hereof.

Any appeal from this decision must be made in accordance with Rule B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Michael B. Sawyer
Michael B. Sawyer

Arnold A. Foreman
Arnold A. Foreman

Baltimore County
Department of Environmental Protection
& Resource Management
County Courts Building
401 Rosley Avenue
Towson, Maryland 21204
(301) 587-3733

Robert W. Sheasley
Director

Bureau of Air Quality Management
300 East Towson Town Boulevard
Towson, Maryland 21204

(301) 887-3775

April 6, 1989



Dennis F. Rasmussen
County Executive

Mr. J. Robert Haines, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

Comments on Zoning Advisory Committee Meeting, Item #360 are as follows:

Property Owner: Louis C. Hoffman, III
Location: SE Corner Long Green Pike & Glen Arm Road
Existing Zoning: RC-5
Proposed Zoning: RC-2 with Special Exception for "Farmer's Co-op Roadside Stand." Petitioner requesting a variance to Section 409.8 A-2 to allow the driveway and parking areas not to be paved or macadam but to have a crusher run surface.
Area: 3.128 acres
District: 8th Election District

This office recommends approval for crusher run in lieu of macadam provided provisions of COMAR 26.11.06.03.D are complied with. The control of airborne particulate (ABP) for this site should consist of the following:

1. With the on-set of increased activity, an assessment to add or replenish crusher run is to be made especially in areas of ingress and egress and other heavily used areas.
2. Calcium chloride is to be appropriately applied subsequently after each application of new/added crusher run to ensure the control of ABP fines with each delivery.
3. To become sensitive to ABP complaints from the community adjacent to this 118,000 SF crusher run surface and take the appropriate control measures to ensure the control of ABP at this site.

RECEIVED
APR 17 1989

ZONING OFFICE

APR 17 1989
WATER AND SEWER

IN THE MATTER OF
THE APPLICATION OF
LOUIS C. HOFFMAN, III, ET UX
FOR A SPECIAL EXCEPTION AND
VARIANCE ON PROPERTIES LOCATED SOUTH-
EAST OF THE INTERSECTION OF LONG
GREEN PIKE AND GLEN ARM ROAD
11th ELECTION DISTRICT
6th COUNCILMANIC DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. 89-414-XA

RULING ON MOTION TO DISMISS APPEAL

This case comes to this Board on appeal from the decision of the Deputy Zoning Commissioner for Baltimore County dated May 3, 1989 wherein a petition for special exception for a farmer's co-op roadside and certain variances were granted along with the imposition of restrictions.

The appeal was filed by Dr. I. G. Sorrells and Mrs. S. Sorrells in the form of a letter dated June 1, 1989 addressed to Ann Nastarowicz, Deputy Zoning Commissioner for Baltimore County. The letter gives no addresses of the parties filing the appeal.

The Petitioner, through his counsel, has filed a Motion to Dismiss with the Board stating that the letter, which serves as a notice of appeal in these proceedings, does not contain the addresses of the appellants as required by this Board's Rules, and that, accordingly, the appeal should be dismissed.

A hearing on the Motion to Dismiss was held on September 19, 1989. Legal arguments were presented both by Petitioners' counsel and People's Counsel on behalf of the appellants. Also, Mrs. Sorrells testified at the hearing on the limited subject matter of the procedure she followed in noting an appeal to this Board. In summary, she stated that she prepared the letter and presented it personally to the Deputy Zoning Commissioner along with a check for costs of appeal. She testified the letter was read and accepted by the Deputy Zoning Commissioner and the check in payment of costs had her address printed on it.

Case No. 89-414-XA
Louis C. Hoffman, III, et ux

2.

The sole issue before this Board is whether the Sorrells have complied with the requirements of Rule 3 of the Rules of Practice and Procedure of this Board. Rule 3 so states:

No appeal shall be entertained by the Board of Appeals unless the notice of the Appeal shall state the names and addresses of the persons taking such an appeal.

The Board has examined the letter filed by the Sorrells, which serves as the notice of appeal. But for the omission of addresses, the letter is in compliance with Rule 3 of the Board. It is in writing, signed by the appellants, properly directed to the Zoning Office and accompanied by the costs of appeal. We find that the requirements for noting an appeal have been substantially complied with and that the failure to provide addresses is a technical irregularity which does not warrant a dismissal of these proceedings. To dismiss these proceedings for such an irregularity would serve to deprive the appellants of their legal rights and the opportunity to be heard on appeal.

In Town of Somerset v. Montgomery County Board of Appeals, 245 Md. 52, 225 A.2d 794 (1966), our Court of Appeals held:

"[w]here there is compliance with the substance of the requirements of statutes or rules and the other parties have not been prejudiced, technical irregularities cannot be made the basis for depriving persons of the opportunity to assert their legal rights."

For the reasons stated above, it is this 28th day of September, 1989 by the County Board of Appeals of Baltimore County

Case No. 89-414-XA
Louis C. Hoffman, III, et ux

3.

ORDERED that the Motion to Dismiss filed by the Petitioners be and is hereby DENIED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Lynn B. Moreland
Lynn B. Moreland

Michael B. Sawyer
Michael B. Sawyer